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History
OF THE
New York Property Tax.

AN INTRODUCTION TO THE
HISTORY OF STATE AND LOCAL FINANCE
IN NEW YORK.

—BY—

JOHN CHRISTOPHER SCHWAB, A. M., Ph. D.

AMERICAN ECONOMIC ASSOCIATION.

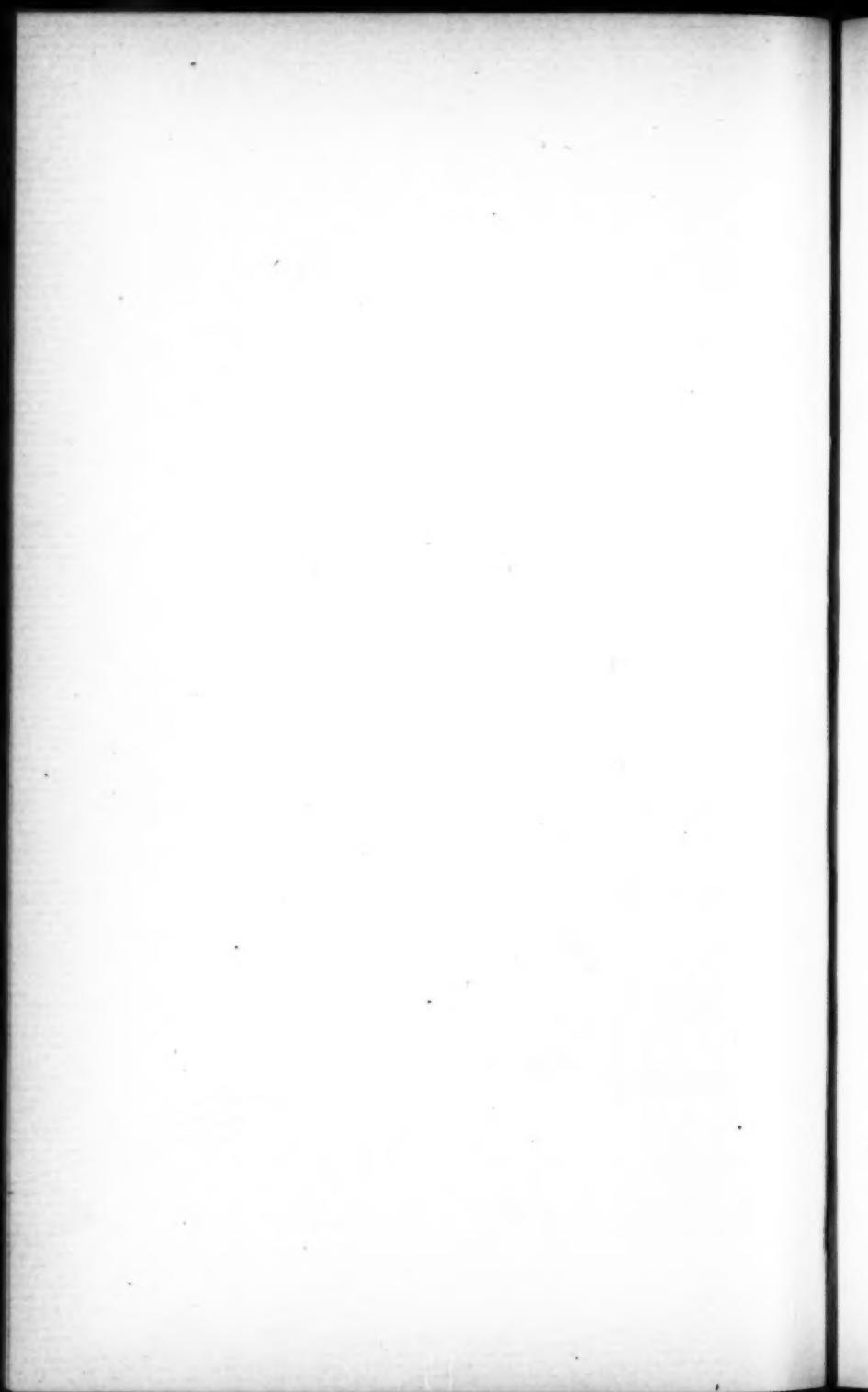
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PREFACE.

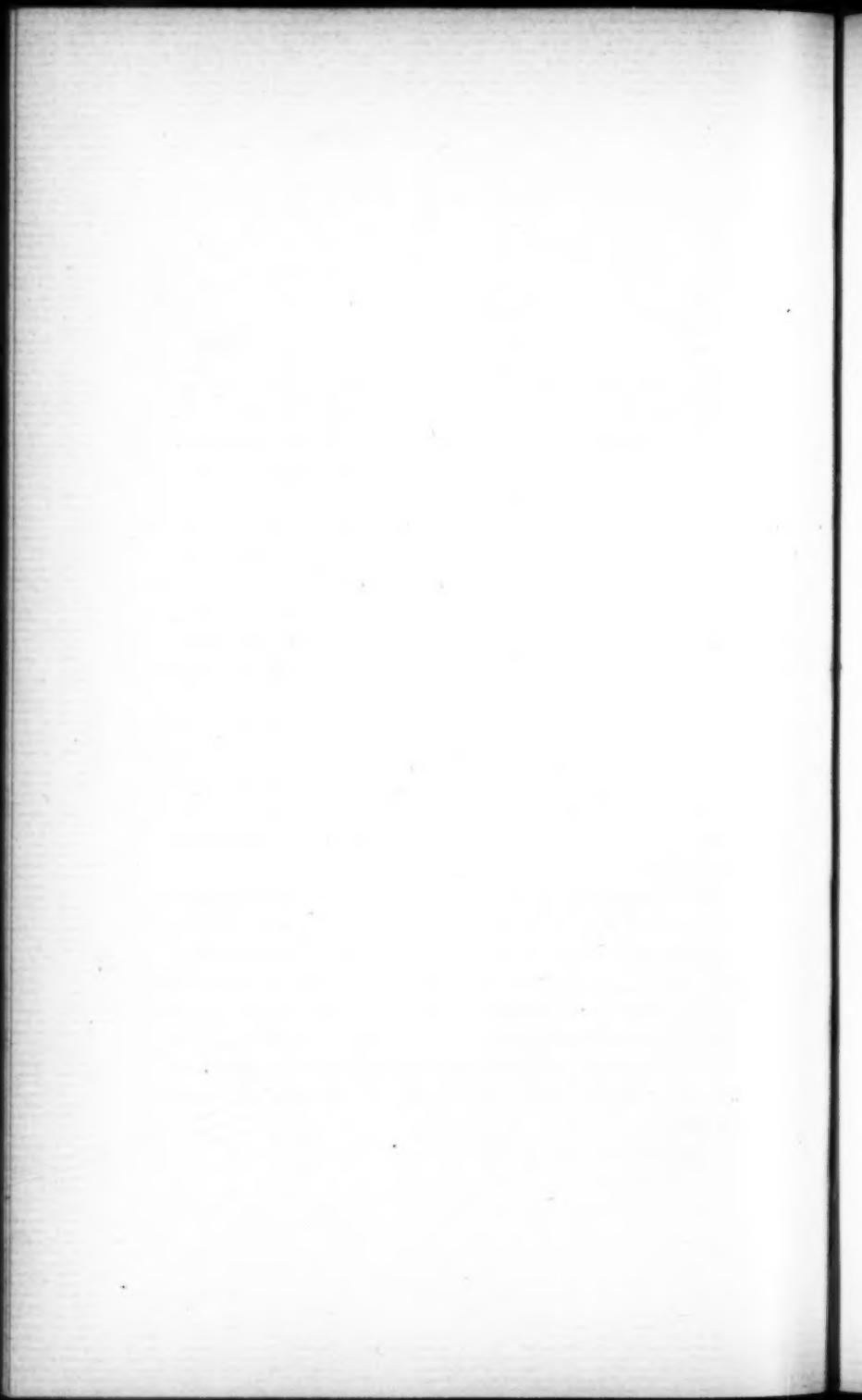
The following pages are an enlargement of my contribution to Professor Ludwig Elster's "Staatswissenschaftliche Studien," entitled "Die Entwicklung der Vermögenssteuer im Staate New York," Jena, Gustav Fischer, 1890.

I have at times gone more into details than may seem necessary; however, I did so in the hope that various lines of investigation might be suggested to the student of the economic history of our country, a most favorable field for investigation, which has so far received but little attention from American economists.

It will be impossible to name all the persons who have assisted me in the preparation of this article, but I cannot refrain from expressing my obligations to Professor Gustav Cohn, of the University of Göttingen, for the kindly interest he took in my economic studies while in Germany.

My particular thanks are also due to Professor Richard T. Ely, of Johns Hopkins University, to the officials of the Royal Library and Royal Archives in the Hague, of the New York State Library in Albany, of the New York Historical Society, of the New York City Comptroller's Office, and to Captain Francis J. Twomey, Clerk of the Common Council of New York City, for the valuable assistance I received at their hands.

NEW HAVEN, CONN.,
September, 1890.



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Sommer Verhael van sekere Amerikaensche Voyagie gedaen door den Ridder Balthasar Gerbier 1660, and *Vertoogh van Nieu-Neder-Land*, weghens de Gelegenheit, Vruchtbarheidt en soberen Staet disselfs, s' Gravenhage, 1650, in the Rijksarchief in the Hague. The latter pamphlet has been translated by Dr. E. B. O'Callaghan. *Remonstrance of New Netherland and the Occurrences There*. 28th July, 1649. Albany, 1856.

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HISTORY OF THE NEW YORK PROPERTY TAX.

I.

1623-1664.

It is in vain that we look for a pronounced fiscal policy in New Netherland. A glance at the economic condition of the Hudson valley during the half century ending with the English invasion in 1664, is the best explanation of this absence of a well regulated tax system. The country open to settlement by the Dutch could offer little to an emigrant, however attractively the pamphlets of the day described its fruitful soil, on which sugar, indigo, cotton, cinnamon and other southern products could be raised in abundance, ("overvloedigh"), its beautiful rivers and navigable waters, its trade and fisheries.¹ Like their successors in our Western Territories, the colonial enthusiasts of those days drew on their imagination as well as their pocket book, in order to induce settlers to emigrate to the New World. The Dutch West India Company, or the city Amsterdam,² or some wealthy Dutchman, as the case might be, paid the passage money of the emigrants, provided them with homes in some suitable district along the Hudson, fortified the settlements and offered

¹Cf. *Beschrijvinge von Nieuw Nederlant, etc. Vertoogh van Nieu-Neder-Land, etc., Sommer Verhael van Amerikansche Voyagie, etc.*

²*Conditien der Stadt Amsterdam, etc.*

the settlers farming utensils, seed and clothing for one year at Dutch prices, and beside all this liberality offered them immunity from every form of taxation, direct and indirect, during a term of ten years.¹

Similar exemptions were offered by the city of Amsterdam in 1656 to any would-be settlers on the Delaware River.²

The character of the Dutch settlements was largely influenced by the institution of patroonship.³ Many rich Dutch merchants availed themselves of the chance of establishing themselves as patroons or feudal lords in this new country, and founded an American land aristocracy which became a leading factor in the history of New York.⁴ The right of preëmption, the monopoly of mills, quarter sales, license to fish and hunt, the power of the patroon to administer civil and criminal justice, the appointment by him of local officers and magistrates, indeed a modified system of feudal land tenure was established, only gradually to disappear. The exaction of quit rents (or ground rents) dating from this time led to the troubles of 1836-46.⁵

¹ *Loketkas, W. I. Co., No. 30; Vreyheden By de Vergaderinghe van de negenthieue van de Geotroyerde West Indische Compagnie*, 1630. The Company promised "de Coloniers van de Patroonen inden tijdt van thien Jaren niet te beswaren met Convoy, Pol, Accijs, Imposten, ofte eenigh andere contributien: ende nae d'expiratie van de selve thien jaren, ten hoogsten met sulcken Convoy als de goedereen hier te Lande tegenvoordigh beswaert sijn."

² *Laws and Ordinances N. Nethd*, p. 243.

³ Brodhead, *History N. Y.*, I. p. 144 ff. *W. Ind. Saecken*, folio 44, 488, 550.

⁴ Doc's *Col. History N. Y.* I p. 4; Elting, *Dutch Village Communities*.

⁵ Cheyney, *Anti-Rent Agitation in the State of N. Y.* 1836-46. Brodhead, *History N. Y.* I. p. 194-200.

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This system of quit rents, which was characteristic of the lands leased directly by the government to settlers, as well as of lands in the possession of the patroons, may be considered the beginning of a land tax. Its relation to the later property tax will be touched upon below.

The colonial revenues of New Netherland were almost exclusively derived from two sources, from duties and from excise.

The favorable situation of New Amsterdam was soon recognized by the Dutch.¹ Immediately upon its settlement it became an important trading centre. From the Island of Manhattan, goods imported from Holland were distributed along the Hudson and through the interior. This was especially the case with so-called "Indian goods." Furthermore, the town lay in the direct line of commerce between New England and the settlements in Virginia, the Colonial navigators preferring the quiet waters of Long Island Sound to the open sea route to the south of that Island. New Amsterdam became the centre of export trade, the chief articles of export remaining for a long time tobacco and furs, especially beaver skins. The importance of the latter article of export is suggested by the beavers in the seal of New Amsterdam, which are retained in the municipal coat of arms of New York to this day, and by the fact that in the terms of capitulation, dated March 12th, 1664, the yearly payment of forty beaver skins to the Duke of York was stipulated.²

¹Van der Donck, *Beschrijvinge van Nieuw Nederlant*, p. 9.

²Doc'y *History N. Y.* II, p. 396; Laws and Ordinances of the city of N. Y., (Wm. Bradford) 1707, Charter of 1686. Brodhead, *History N. Y.* II, Appendix.

During the seven years, 1624-1630, 42,987 beaver skins and 4,890 other skins, to the value of \$140,000 (355,692 guilders) were exported from New Netherland.¹

The favorable situation of New Amsterdam, the key to the Dutch possessions in North America, naturally led to the introduction of import, export and transit duties, which the West India Company, thanks to its exclusive right of transportation, found comparatively little difficulty in collecting. The duties never seem to have risen above 15 per cent. *ad valorem*.²

Occasionally we hear of complaints, as in 1658, against the heavy export duty on tobacco.³ Reference to defrauding importers is made in 1649,⁴ and in 1661 a schepen of New Amsterdam is convicted of smuggling. The export duty was frequently evaded by transporting goods to Virginia or New England, and exporting them thence to England.⁵ The transit duties on goods going up the Hudson were also at times evaded.⁶

The loss of revenue on this account may have been one of the causes which led to the introduction of an indirect tax on the consumption of beer, wine and liquor.

This second tax which naturally suggested itself to the Dutch authorities was intended to reach the

¹ Valentine's *Manual* for 1851, p. 368.

² Brodhead, *History N. Y.* I, pp. 288, 312, 394; Doc's Col. *History N. Y.* I, p. 429; Dutch Records, City Hall, July 23, 1647.

³ Dutch Records, City Hall, Sept. 19, 1658.

⁴ Dutch Records, City Hall.

⁵ Brodhead, *History N. Y.* I, p. 466 (1647).

⁶ Records Common Council, City Hall, Oct. 16, 1669.

producer, and was comparatively easy to collect, as distilleries, breweries and winepressers existed in great numbers.¹

In 1650 the revenue of the Colony, it is stated by Secretary Van Tienhoven,² was derived from an 8 per cent. export duty on beaver skins, an excise on beer of \$1.20 (3 guilders) per tun, first imposed in 1644, and an excise on wine of 2 cents (1 stiver) per can, first imposed in 1647.

Frequent complaints are made about the heavy taxes, and about Governor Stuyvesant's being "so much given to confiscating."³ His wine excise, "beside still other intolerable burdens," are mentioned. A letter to the Earl of Clarendon in 1661⁴ speaks of "unheard of excise, not only on all goods brought to them or caryed from them, but also on what they eat and drinke."

One gains the impression, in looking through the numerous remonstrances regarding the wretched Home government (*de quade regering*),⁵ that the Colonists were justified in complaining about heavy taxes, and in demanding "exemption from duties, tenths and taxes, which at the first beginning are disadvantageous and oppressive until the country becomes populous and somewhat firmly established."⁶

¹ Brodhead, *Hist'y N. Y.*, I, pp. 394, 467. *Kort Verhael van Nieuw Nederland*, etc., p. 3. *Vertoogh van Nieuw-Nederland*, etc., pp. 5, 60.

² Doc's *Col. Hist. N. Y.*, I, 429. Nov. 29, 1650.

³ *Vertoogh van Nieuw-Neder-Land*, etc., pp. 38, 60.

⁴ Collections N. Y. Hist. Society for 1869. Clarendon Papers—Maverick to the Earl of Clarendon. Cf. *Loketkas, W. Ind. Co.* No. 30.

⁵ *Vertoogh van Nieuw Neder-Land*, p. 38. *Loketkas, W. Ind. Co.* No. 30.

⁶ *Loketkas, W. Ind. Co.* No. 30. Petition dated July 26, 1649. Doc's *Col. Hist. N. Y.*, I, 259. Petition dated Oct. 13, 1649.

As early as 1653 the city finances of New Amsterdam were in a shocking condition.¹ There were no means of paying a debt of \$360 (900 guilders); even the Turnkey was asked to wait for his salary a little, "till something should come into the treasury."²

In a letter to the Home government of 1656 the city authorities of New Amsterdam call attention to the low condition of the municipal finances.³ "An official remonstrance from the Home government" had failed to relieve matters.⁴ The citizens were evidently unwilling if not unable to pay taxes.

With envious eyes the Dutch settlers looked toward New England. There, they said, was a populous, rich, prosperous and flourishing district carrying on trade with the whole world, while New Netherland, though much more favorably situated, was desolate, ("woest"), impoverished, endangered, yes, ruined by a wretched government.⁵

The adoption of the New England tax system was desired by many. There, according to Secretary Von Tienhoven's report in 1650,⁶ "all the property and means of the people, as well of the highest as the lowest, were appraised by the magistrates and taxed according to each man's ability for the payment of the governor, deputy governor, magistrates,

¹ Dutch Records, City Hall, Dec. 8, 1653.

² *Ib.*, Dec. 12, 1659.

³ *Ib.*, Sept. 11, 1656.

⁴ *Ib.*, June 12, 1654. Proposition gadaen door den Dr. Genl. en Hooge Rad.

⁵ *Loketkas, W. Ind. Co.* No. 25. "Aen de Hoogh Moogende Heeren de Heeren Staten Generael der Vereenigde Nederlandsen. (De Gecommitteerde uijt Nieuw Nederlant. Feb. 7, 1650.)"

⁶ *Doc's Col. Hist'y N. Y.*, I, p. 364. Cf. Peters, T. McC., *Town Government in Mass.*, Bay Colony, middle of seventeenth century. N. Y., 1890.

secretaries, marshals, constables, military officers, ministers and schoolmasters, for the erection of churches, schoolhouses and town edifices, for the repairs of bridges, for the erection of ordinaries for travellers of the University in Boston, for the support of the General Assembly and of the Court."

The low financial condition of the Colony during the governorship of Pieter Stuyvesant led to the extension of the tax system in this direction, that is to the addition of direct taxes to the indirect taxes already existing. In 1654 the officials in New Amsterdam are advised by the Home government to find ways and means to raise money. They act accordingly, and decide to raise a tax on real estate ("taxatie van vaste goederen."¹) Pieter Stuyvesant seems to have been the moving spirit in this new development. Early in 1654 he and his Council adopt a resolution,² which sets forth that they "have not been able to find a better expedient or measure aside from the duties on merchandise, than to impose an honest and fair tax upon real property, as land, houses or lots, and milch cows or draught oxen." Then follow the proposed rates. The Home government gladly approves of the plan, increases the proposed rates and calls the tax a special war tax.³ The imposition of this tax must have been effective, for a year later the Burgermeester and Schepen of New Amsterdam receive a letter, dated May 26, 1655, from the Home government,⁴ which after addressing them as "Honorable, Pious, Dear, Trusty Subjects,"

¹Dutch Records, City Hall, August 2 and 10, 1654; Oct. 1, 1655. Doe's *Col. Hist'y N. Y.*, XIV, p. 283.

²Doe's *Col. Hist'y N. Y.*, XIV, p. 270.

³Brodhead, *Hist'y N. Y.*, I, pp. 589-90.

⁴Dutch Records, City Hall, August 17, 1655.

announces the establishment of a yearly municipal tax of twenty cents (ten stivers) on each morgen of land, (about twenty-seven cents an acre,) thirty-nine cents (twenty stivers) apiece on horned cattle, and five per cent. on the rent of all houses. Three years later it was decided to assess and tax vacant lots in New Amsterdam the fifteenth penny (six-and-a-half per cent.) until built upon. Payment in kind was as usual allowed.¹ In 1661 the authorities of Esopus are empowered to raise one Rix dollar (presumably equal to three guilders or \$1.20) from every morgen (three-quarters of an acre) of land, or about \$1.60 from every acre.²

This increase of taxes aroused great indignation.³ Indeed the wording of the laws plainly shows that the introduction of direct taxes was intended as an extraordinary measure to supplement the revenue from indirect taxes during the financial distress of the '50's and '60's of the seventeenth century,⁴ which made the English invasion of 1664 and consequent change of government a blessing to the Colony.

In announcing the surrender of the Colony to the English, the Colonial authorities give a parting shot at the Home government. They write:⁵ "We, your Honors loyal, sorrowful and desolate subjects, can-

¹ Laws and Ordinances of New Netherland, p. 325 (Jan'y 15, 1658), N. Y. Col. MSS., VIII, 645; XVI, 126.

² Laws and Ordinances of New Netherland, p. 413 (Nov. 12, 1661), N. Y. Col. MSS., IX, 883.

³ Doc's *Col. Hist'y N. Y.*, II, p. 151 (1653.)

⁴ Laws and Ordinances New Netherland, page 197 (Oct. 11, 1655), p. 184 (Sept. 2, 1654). N. Y. Col. MSS., VI, 97; V, 301.

⁵ Dutch Records, City Hall, Sept. 16, 1664. Letter addressed to "Groot, Achtbr and voorsienige Heeren, de Heeren Bewint-heberen van de E. Westindische Compagnie ter Camere Amsterdam."

not neglect nor keep from relating the event, which through God's pleasure thus unexpectedly happened to us *in consequence of your Honors neglect and forgetfulness of your promise.*" Two months later they address a respectful letter to the Duke of York,¹ but do not fail to refer to the Colony's having been impoverished for many years by heavy taxes.

The Dutch West India Company had proved a failure, at least in its attempt to found a strong commonwealth in America. Its primary object had been to develop trade between Holland and America. In this it had been much harassed by the Spanish wars, and aside from New Netherland, its colonies in America amounted to very little. The trade between New Netherland and the quasi-Dutch possessions in South America, particularly in Brazil, of which so much had been expected,² never reached any importance, and Pieter Stuyvesant's high-sounding title of "Director General of New Netherland, Curaçao, etc."³ was little more than a name.

The West India Company displayed too mercenary and selfish a spirit, which did not favor the development of a healthy commonwealth. "The provincial agents generally displayed more devotion to the interests of the directors in Holland than to those of the community over which they were placed."⁴ The administrative policy of England

¹Dutch Records, City Hall, Nov. 22, 1664. Letter addressed to "Groot, Achtbr and voorsienige Heeren, de Heeren Bewintheberen van de E. Westindische Compagnie ter Camere Amsterdam."

²W. Ind. Saecken, folio 324, 334, 343.

³Dutch Records, City Hall, March 10, 1648.

⁴Brodhead, *History N. Y.* I, p. 746. Cf. Jameson, Willem Usselinx, also Adam Smith's criticism in his *Wealth of Nations*, Book IV. chap. VII.

was better suited to the needs of the Colony, as experience proved.

It was stated above that the ordinary revenue of New Netherland was derived from indirect taxes and that direct taxes were only resorted to as an unusual measure in time of distress. This conclusion seems to be disproved by numerous references to a property tax as existing on Long Island.

As early as 1654 the "Director General and Supreme Council authorize the schepen and magistrate of the town of Midwout, at their request, to levy six guilders (\$2.40) on each lot situate within the district of said town,"¹ and three years later a tax of 300 guilders (\$120) was levied on the town of Breuckelen. The officials write:² "We, to raise said sum in the easiest manner, assessed and taxed each person as is hereunder more fully set forth, all according to our conscience and opinion in easy circumstances and well off." The Court messenger was authorized to notify each taxpayer of his assessment and to collect the tax, payable in two instalments in country produce. At the same time twelve inhabitants of Walebocht were taxed 88 guilders (\$35), and seven inhabitants of Gouwanus 60 guilders (\$24).

Complete assessment lists of many Long Island towns, dated 1675-83 and signed by the proper officials, are in existence,³ which force us to believe that a well developed property tax was in force on Long Island before the English invasion of 1664.

¹Laws and Ordinances New Netherland, p. 184, (Sept. 2, 1654), N. Y. Col. MSS. V, 381.

²Laws and Ordinances New Netherland, p. 304, (Feb. 13, 1657), N. Y. Col. MSS. VIII, 463.

³Doc's *Col. History N. Y.*, II, p. 700; XIV, p. 736; Doc. *History N. Y.* II, p. 91ff, p. 441 ff.

These towns are East Hampton, Huntington, Southold, Flushing, Newtowne, Brookhaven, Breuckelen, Boswyck, New Utrecht, Amsfortt, Middelwout, Bushwyck, Gravesend, Jamaica, Hampsted, Oyster Baye, Smith's Towne, Southampton and New Orange.

As an individual assessment we cite that of Richard Browne, of Southold, dated Sept. 16, 1675.¹ He was assessed at 4 heads, £72; 50 acres of land, £50; 8 oxen, £48; 10 cows, £50; 6 three-year-olds, £24; 7 two-year-olds, £17.10; 5 yearlings, £7.10; 6 horses, £72; 24 shepe, £8; 10 swine, £10; 1 year old 1 yearling, £11; total £370—\$1,790.80.

The introduction of a property tax on Long Island at a time when this tax was almost unknown to the Dutch settlers on the continent is easily explained when we remember that Long Island had never been more than nominally under Dutch jurisdiction.² The eastern end of the island was almost entirely settled by the English from New England, Southampton from Lynn, Mass. in 1640, Newtown and Gravesend from Massachusetts, Easthampton in 1653. New Haven, Conn., had been a colonizing centre, whence agricultural settlers had been sent across Long Island Sound.³ The influence of the English had always predominated on the island; indeed, they had claimed the island and were practically in possession of it as early as 1656, as is evidenced by Von der Donck's expression:⁴ "Long Island has almost

¹ Brodhead, *History N. Y.* II, p. 257; Doc's *History N. Y.* II, p. 448. The currency of New York was at this time about seven-tenths the value of English money.

² Johnston, Connecticut, pp. 137-8; Roberts, New York, I, p. 89; Hildreth, *History U. S.* I, pp. 146, 416-17, 434, 438, 440, 443.

³ Brodhead, *History N. Y.* I, p. 670.

⁴ Von der Donck, *Beschrijvinge van Nieuw Nederland*, p. 7, "het (Lange) Eylandt is meest alle by verscheide middelen van d'Engelsche gheincorporiert." An anonymous pamphlet of 1662 contains

entirely, by one means or another, been incorporated by the English."

While the mutual boundaries of their possessions were in dispute, the English and Dutch encroached very largely on each other's dominions. On the one hand we hear of "encroaching neighbors," of the invasion of the English and of the English villages on Long Island; on the other hand of Dutch claims to the whole of Connecticut and of Dutch intruders in that colony.¹

The Puritan colonists on Long Island naturally retained the form of taxation to which they had been accustomed in New England, and introduced the customary general property tax.

That the Dutch should not have hit upon the same form of taxation finds a partial explanation in the history of taxation in Holland.²

If the Dutch settlers looked to their mother country for models of tax forms to introduce into their American possessions, as they naturally would, they found numerous types of indirect taxes to choose from, but no tax that bore any resemblance to a general property tax. The Dutch developed every form of indirect taxes to raise the revenue necessary to carry on their war of independence. The importation and consumption of wine, beer and liquor was heavily taxed after about 1580. In the same way many articles of luxury as well as necessity were

a similar expression: "dat hebben de Engelzen ook al op weenigh na in't bezit." *Kort Verhael van Nieuw Nederlant*, p. 18. Cf. *Vertoogh van Nieuw-Neder-Land*, p. 20, ss.

¹Dutch Records, City Hall, 1653-4, Oct. 22, 1663, Feb. 11, 1664. *Vertoogh van Nieuw-Neder-Land*, pp. 21, 29; Bancroft, *History U. S.* I, p. 491; Brodhead, *History N. Y.*, I, p. 519.

²Cf. Laspeyres, *Volkswirthschaftliche Anschauungen d. Niederländer*; Engels, *De Belastingen der Republiek*; and Rogers, *Economic Interpretation of History*.

taxed either by an import or an excise duty. Direct taxes played an unimportant role in Holland during this period.

In the establishment of their tax system, the New England settlers followed the entirely different practice of direct taxation in their mother country, and adopted as their chief tax one which in principle had existed in England since the Norman conquest.¹

The danengeld of the eleventh century, the scutage of the twelfth and the subsidies of later centuries were essentially taxes on real property, while the fifteenths, instituted by Henry II in 1165 to cover the expenses of his crusades, bear the character of taxes on personal property. This system of taxing the aggregate property of all citizens, personal as well as real, existed till far into the seventeenth century, the subsidies under the name of "monthly assessments" at the time of Cromwell, the last one being raised by Charles II in 1673. The introduction of the land tax gave the development of English taxation a new direction.

The whole development is thus summed up by Vocke:²

"English taxes under the feudal *régime* were proportionate to the lands held in fee simple, that is, were real property taxes. Personal property taxes came into vogue as soon as the industrial and commercial classes reached importance, while land taxes were introduced with the decline of the feudal system and consequent changes in land tenure and land values. Income taxes could only be introduced after the complete downfall of feudalism, and when the modern ideas about duties toward the state demanded a contribution from all citizens for a common purpose."

¹Dowell, *History Taxation* III, pp. 67-71; I, pp. 38-162, 227, 238; Sinclair, *History Pub. Rev.* I, p. 43, ff. 87; Vocke, *Steuern d. brit. Reichs*, ss. 479 ss.; Wagner *Finanzen.* III, §§ 70-75, ss. 162-172; §§ 81-82, ss. 182-4.

²p. 505.

It is interesting to observe how closely some of the early English assessment laws resemble those of New York of a few centuries later. As early as 1188, at the time of the celebrated Saladin tythe, the method of collecting this general property tax is minutely prescribed. We see in its provisions the prototype of the New York assessment laws. The distinction between real and personal property, the exemption of armor, of clerical paraphernalia and of precious stones, presumably because of the difficulty of reaching the latter, are the peculiar features of the law. "And if any one shall have given less than he ought to in the opinion of the officials, four or six loyal men of the parish shall be chosen; being put under oath, these shall say how much more the delinquent should have paid, and he shall be obliged to pay this sum."¹ This is an excellent example of the transition stage from a voluntary to an enforced contribution or tax, of which more below.

The assessment laws of the fourteenth century are more explicit.² The election of assessors in every city,

¹Dowell, *History Taxation* I, Appendix I, p. 227; "Uniusquisque decimam reddituum et mobilium suorum in eleemosynam dabit hoc anno, exceptis armis et equis et vestibus militum, exceptis similiter equis et libriss et vestibus et vestimentis et omnimoda capella clericorum, et lapidibus pretiosis tam clericorum quam laicorum."

"Et si aliquis juxta conscientiam illorum minus dederit quam debuerit, eligenter de parochia quatuor vel sex viri legitimi, qui jurati dicant quantitatem illam quam ille debuisse dixisse; et tunc oportebit illum superaddere quod minus dedit."

²Dowell, *History Taxation* I, p. 238.

"Les chiefs Taxours sanz delai facent venir devant eux de chescune cite, burgh et autre vile du counte, deinz franchise et dehors, les plus loials hommes et mielz vanez de meismes les lux a tiele noumbre dount les chiefs Taxours puissent suffisement es tire qatre au sis de chescune ville, ou plus si mester feit, a lour discre-

burgh and town is authorized. The oath of office they are to take, and the method of assessing property they are to adopt, are minutely prescribed.

The appointment of assessors has become well established, the exemption of church property and of necessary household goods, or of what corresponded to them in the middle ages, of horses and arms, is provided for. The assessor's oath, the penalty for concealment, and the assessment of property at its "vereie value" reappeared in their American garb.

We shall see how the system of assessing and collecting taxes in New York had a similar origin, and has always remained true to the principle of measuring a man's ability to pay taxes by the amount of his real and personal property. How deeply rooted this principle is in the Anglo-Saxon race, is shown by the fact that the present British local taxes are still based on a similar principle of taxing land and householders, according to the rental value of their real property.

Municipal Finances of New Amsterdam.

A few words regarding the financial history of New Amsterdam before we take up the English period. In accordance with the custom in Holland,¹ cion, par lesqueux la dite taxacion et ce qe a ce appent a faire mielz purra estre faite et accomplie."

"Et quant il averont tieux eslutz, adonques les facent jurer sur Seintes Evangèles, seit a saver ceux de chescune ville par eux, qe ceux issi juretz loialment et pleinement enquerront queux beins chescun de meismes les villes avoit le jour de Seint Andren avant dit, en meson et dehors, ou q'il fuissent, saunz nul desporter, sur greve forfeture. Et tous ceux biens, ou q'il seient devenuz depuys en cea par vente on en autre manere, loialment taxerount solone lour vereie value. . . ."

¹Larpeyres, *Volksv. Auschauungen d. Niederländer*, p. 232.

indeed in accordance with the custom in vogue in all medieval communities, the revenues were farmed out. Thus the Burgher and Tapper Excise was farmed out to the highest bidder at public auction.¹ The farmer was required to make quarterly payments to the city treasury, offer two bondsmen and keep an office open for the transaction of business. The farming of the excise must have been a remunerative business, at least judging from the account of the spirited auctions.² The excise duties which the farmer was authorized to collect were established. Curiously enough the tax discriminated in favor of French wines. This source of revenue, the city excise, brought in \$1,700 (4220 Carolus guilders) in 1656, and \$1,400 (3510 guilders) in 1659.

Innkeepers' licenses were early introduced, and on the other hand the price at which the innkeepers were to retail their refreshments was fixed.³ They naturally suffered under this double fire and complained in 1657 that they could only afford to pay the license fee, if the authorities did not prescribe the price at which they were to sell at retail.

Another source of revenue was the city slaughterhouse. This was farmed out in 1656, for instance, for \$280 (710 Carolus guilders), the farmer in return receiving five per cent. of the value of all slaughtered cattle.⁴ The same arrangement is made

¹ Cf. *Conditien en Vorwarden volgens de Costume en ordre onses Vaderlants aende meestbietende te verpachten de Borger Excis van Wijnen en Bieren binnen deser Stede Amsterdam.* Dutch Records, City Hall, Oct. 30, 1656.

² *Ibidem*, Oct. 29, 1659.

³ Dutch Records, City Hall, Jan. 9, 1657.

⁴ *Conditien en vorwarden . . . aen de meestbietende te verpachten den excis van geslacht Bestiaue binnen de Stede Amsterdaems Jurisdictie, Ibidem*, Oct. 30, 1656.

in 1659 and the sum offered rises to \$460 (1135 guilders).¹ All persons slaughtering oxen, cows, calves and sheep for private consumption, are to give notice to the slaughter-house farmer, procure a permit from him and pay him his legal fee.²

These forms of indirect taxation bear as much the character of police regulations as of fiscal measures.

Some revenue was also derived from farming out the ferry to Long Island.

The fees of secretaries, notaries, clerks and similar officials, were fixed by law in 1658,³ and Court fines were to be divided one-third to the city, one-third to the officer, one-sixth to the church and one-sixth to the poor.⁴ Among the fines was one for tardiness and absence from a meeting of the Schout, Burgo-meesters and Schepen;⁵ another of \$10.00 (25 guilders) for neglect to sweep a chimney in case it caught fire,⁶ which fine is still in force and collectible, but amounts now to only \$5.00.

Finally, a considerable sum of money annually flowed into the city treasury from the sale of the "groote borgerrecht" and "klijne" or "poorter recht," the "freedoms" of the English period. The origin of these rights of citizenship remind one forcibly of the exclusiveness of a medieval city. It seems the resident merchants of New Amsterdam were much harassed by the competition of itinerant merchants, coming especially from New England

¹ *Conditien en vorwarden . . . aan de meestbietende te verpachten den excijs vant geslacht Bestiaeu binnen de Stede Amsterdaems Jurisdictie*, Dutch Records, City Hall, Sept. 26, 1659.

² *Ibidem*, Feb. 25, 1659.

³ Dutch Records, City Hall, Jan. 25, 1658.

⁴ *Ibidem*, Feb. 25, 1658.

⁵ *Ibidem*, April 16, 1653, Feb. 27, 1663.

⁶ *Ibidem*, Jan. 23, 1648.

and settling only for a short time in the town. Complaints are made as early as 1648.¹ To put a stop, to this sort of competition, foreign traders, especially the "Scotch pedlars", were compelled, by virtue of the city's staple right, to set up and maintain an open store in New Amsterdam, and to procure from the authorities the lesser right of citizenship ("Klijne" or "Poorterrecht", cost \$8.00 or twenty guilders) to enable them to trade.² The greater right of citizenship, "Groote borgerrecht", cost \$20.00 or fifty guilders) qualified the holder for any city office and gave him among other privileges freedom from arrest by a subaltern officer.³ Within two months after the publication of this law, 209 persons had bought the lesser right of citizenship and twenty the greater.⁴

Complaints are nevertheless often heard of non-citizens carrying on trade in New Amsterdam,⁵ and in 1661 it is provided that the right of citizenship should be lost after an absence of four months from the city; and beside obtaining the burgher right, a person must have resided six consecutive weeks in the city or have paid the city \$8.00 (twenty guilders) in beavers (or the value thereof), over and above the cost of his right of citizenship.⁶

The finances of New Amsterdam were from the earliest date poorly regulated. There was constant friction between the city and Home government,

¹Dutch Records, City Hall, Sept. 18, 1648.

²Repeated, Minutes Common Council, April 24, 1691.

³Dutch Records, City Hall, March 29, 1657; June 18, 1660.

⁴*Ibidem*, April 8, 1657.

⁵*Ibidem* 1659 *passim*.

⁶*Ibidem*, Jan. 18, Feb. 25, 1661. Minutes Common Council, March 15, 1683.

regarding the former's right to enjoy the excise and ferry revenues.¹ At times the revenue from one of these sources had to be pledged to the payment of some debt. At other times as in 1658,² "there were several who had bought the burgher right and not paid for it," while the farmers of the public revenues were constantly in arrears in their payment to the city treasury.

II.

1664-1683.

THE CHANGE OF GOVERNMENT.

We pass on to the period which begins with the English invasion in 1664. As was suggested above, the change of government proved beneficial to the colony. The domestic affairs remained almost unchanged. By the articles of surrender it was provided³ "that all officials and magistrates shall continue in office." The payment of the city's debt incurred before the English invasion was provided for. "Planters were to enjoy their Farms, Houses, Lands, Goods and Chattels . . . upon ye same terms which they do now possess them, only that they change their masters."⁴ The English population in New Netherland and the close relation between Great Britain and the Netherlands during the seventeenth century made such a change of sovereignty an easy matter.

¹Dutch Records, City Hall, Jan., May 18, Sept. 22, Nov. 23, 1654.

²*Ibidem*, March 25, 1658.

³Dutch Records, City Hall, June 14, 1665. Brodhead, *Hist'y N. Y.*, I, p. 762.

⁴Brodhead, *History N. Y.*, I, pp. 744-5. O'Callaghan, *History New Netherland*, II, pp. 537, 593.

The Duke of York's government of the province was in marked contrast with the Dutch *régime*. The governor general, the duke's representative, soon introduced businesslike management into the colonial finances. A collector of imports was appointed. His oath of office read:¹

"That you will faithfully and truely discharge the trust reposed in iou and that you will not directly or indirectly act or contrive any waij to the prejudice of the revenue but shall on all occasions discover any fraud intended and that you will keep exact accompt of all moneys you Recive and be accountable to the Maijor and Aldermen so offten as you shall be thereunto required and not to pay any money to any person whatsoever without a warrant from the Major or his deputy and that signed by M. Nevins as entered."

This shows at least the good intentions of the Government to put the Colonial finances in order. Export and import duties were firmly established, the former as usual laid upon the exportation of "furr, Peltrey or hides, tobacco, sugar and Brazilian dyewoods."² The weigh-house and slaughter-house charges were fixed.³ On all sides we see confusion giving away to order. This is particularly evident in the publication of the "Duke's Laws,"⁴ a code copied directly from the existing laws in New England.

In these laws definite provision is made for the assessment of taxes.

"All assessments shall be made by the Constable and the Eight Overseers of the Parish Proportionably to the Inhabitants in the Towne or Parish where such Assessment is to be made and Every Inhabitant who shall not contribute to all Charge both Civill and Ecclesiastical proportionably to the rate soo assessed shall be compelled thereunto by attachment or distresse of goods to be Levyed

¹ Dutch Records, City Hall, June 19, 1665.

² *Ibidem*, March 5, 1671-2. Ordinance, July 2, 1667.

³ *Ibidem*, June 27, Oct. 31, 1665.

⁴ State Library, Albany, Brodhead, *History N. Y.*, II, p. 70ff. *N. Y. Hist Coll.*, 1st series, vol. 1; Heading; "Assessments, Charges Publique, Fees, etc."

by the Constable, Provided noe man shall be Assessed for Estate reall or psonall which Lyeth not within the Same Towne or Parish where he is assessed . . . That the Justice of the Peace only shall be exempt from Paying any Publique Assessmt in the Parish where he Inhabit During the time of their bearing Office, Paymts to the Church only excepted . . . The Towne of Assessmets shall be certified in writing into the Sessions and the Justices are Empowered to rate in any inhabitant by Abatement who shall make itt Appear that he is overcharged"

"Charges publique" are to be regulated as follows:

"That the high Sherriffe for the time being shall from yeare to yeare send forth his warrants to the High Constable of every Towne within their Rideing who shall send warrants to the Constables of each Rideing requireing each Constable to call together the overseers of their town who shall within four months . . . make a list of all the male Persons in the same towne from 16 yeares and upwds and a true Istimacon of all Psonall and reall Estates being or reputed to be the Estate of all and every the Persons in the same towne or otherwise under their Custidy or management according to just valuation"

The kinds of property to be taxed are enumerated, the value of cattle is established. Infirm and sick persons are to be exempt from all taxation. Correction of errors in the assessment list is made possible. Payment in kind, imprisonment in case of refusal to pay, and levy by distress are provided for. The same code of laws fixed the Sheriff, Constable, and Court fees.

It was only on Long Island where, as was shown, the English influence predominated, that the "Duke's Laws" were carried into effect,¹ while the Hudson valley, especially the cities New York, Albany, Esopus and Schenectady did not come within their jurisdiction. This may be taken as further evidence that the property tax was an unusual form of taxation on the continent during the Dutch period. On Long Island

¹Howard, *Local Const. History U. S.*, p. 105.

on the other hand the "Duke's Laws" fell in with the habits of the people and the regulations concerning taxation were consistently carried out.¹ Property was assessed and taxed, appearing in the rolls under the heads of land, houses and cattle.

On the continent this form of taxation was slower of adoption. In the Delaware valley to be sure we have evidence of a regularly assessed property tax in 1676.² But in this district the English influence had always been strong just as on Long Island.

In 1680 the Duke of York ordered Governor Lewen to inform himself—

"With all diligence and exactnesse wt rent or tax every house at N. Yorke, Esopus, Albany, Long Island and all other N. Y. territoryes doth or ought to pay by ye year . . . ye total of all Quittrents and other rents, proffitts, services and advantages due and payable to me or any other."³

He was evidently dissatisfied with the absence of any regularly established direct taxes in his American possessions. In New York and Albany the houses had been taxed—

"But att uncertaine rates, some more, some less, as they judge requisite and is or ought to be employed to the use of said towns. . . . But those of New York say they have never had any perfect accot. either of the tax of houses whch amounts to 170£ (\$600) per ann., nor of the dockage, wharfage or anchorage whch. is conceived amounts to a great sume annually. . . . They likewise say a considerable sume of money was raised upon their stocks both Inhabitants and Merchant strangers for making the Docke att first, but never any accot. made to them of it, though they conceive there may be considerable surplusage. The severall Taxes sett or raised by the 200th penny at Albany, fines, Amerciaments, etc. are set forth in abstract from severall Records as much as could be found. But there was a tax of the 300th penny at

¹Doc's *Col. History N. Y.*, XIV, p. 602 (Nov. 3, 1667); p. 626 (Oct. 12, 1669); III, p. 304 (1681).

²Doc's *Col. History N. Y.*, XII, p. 566 (Nov. 23, 1676).

³Doc's *Col. History N. Y.*, III, p. 280, (May 24, 1680.).

Albany and 200th penny at Schenectedie of wch. I could have no acct."¹

During the revival of the Dutch sovereignty in 1674, Governor Colve had found "no means . . . more reasonable than to raise the moneys by form of a tax on the wealthiest and most affluent inhabitants." . . . He ordered "that an assessed tax be levied on the estates and means, without any exception, of all the inhabitants . . . of New Orange, those alone being exempted whose capital shall be estimated not to exceed the sum of 1,000 guilders (\$400) . . . the assessment to be made by six indifferent persons."² The exemption of property under 1,000 guilders seems to have been an after-thought, for such estates were included in the first two assessments and were afterwards omitted. A Board of Assessors had been appointed on February 1st, 1674, representing in equal parts the Government, the community and the magistrates, and assessed 134 estates.³

A month later Governor Colve raised a forced loan of 1 per cent. of the property of the well-to-do.⁴ It is called "a tax advanced in the form of a loan,"⁵ and naturally met with considerable opposition, "some persons forgetting or refusing to pay," though the loan was to be repaid out of the revenue from

¹Doc's *Col. History N. Y.* III, p. 303. Governor Lewen's Report, 1681.

²*Ibidem* II, p. 685; (Feb. 14, 1674).

³Valentine's *Manual* for 1866, p. 805; N. Y. Col. MSS. 23, 206; Moulton & Yates, *History N. Y.* p. 19.

⁴N. Y. Col. MSS. 23, 225; *Laws and Ordinances New Netherland*, p. 522, (March 17, 1674); Doc's *Col. History N. Y.* II, p. 697.

⁵Records Common Council, June 12, 1674. "Taxatie . . . by forme van Leeninge vorstreckt."

import and export duties, a promise which probably was never fulfilled.¹

Voluntary and Enforced Contributions.

The attempt to levy a tax on the property of the well-to-do suggests a subject of great interest to the student of the history of taxation, namely the system of voluntary contributions, which we find were in all early communities the first step toward the establishment of a fixed tax. Such a primitive form of taxation is described in *Tacitus' Germania* (Chap. XV) "A gift is offered by every subject for the support of his chief."

The evolution of a tax from a voluntary contribution is illustrated in the financial history of New York. At first an informal contribution for some common purpose is raised. Gradually the size of the contribution is proportioned by custom to the contributor's possessions. As time goes on, pressure is brought to bear on the contributor and he is forced, by some indirect means, to maintain this proportion. Finally the voluntary character of the contribution has disappeared and it becomes a forced contribution or a tax proportionate to the taxpayer's possessions.

At first for some common purpose, as in 1648, for the erection of a church, or in 1667, for the maintenance of a minister,² voluntary offerings were solicited. Or else, as in 1653, a list of forty-two persons was made out, who were *provisionally* to contribute \$2,000 (5050 guilders), for the purpose of putting the city in a state of defense, the contributions

¹ N. Y. Col. MSS. 23, 225; Doc's *Col. History N. Y.* II, p. 697.

² Doc's *Col. History N. Y.* I, p. 424 (Nov. 29, 1650); Dutch Records City Hall, Feb. 7, 1666-7.

ranging from Hendrick Kip's \$20.00 (50 guilders) to Cornelis von Steenwyck's \$80.00 (200 guilders).¹ The element of compulsion is already apparent, as well as the indefinite promise of refunding the contribution contained in the word "provisionally." The element of compulsion becomes more apparent in an ordinance of 1655, which reads:—²

"The Director-General and Council of New Netherland . . . consent that the Burgomasters (of New Amsterdam) shall . . . first and foremost solicit both from the trading shippers, merchants, factors and passengers, and from the citizens in general, a voluntary subscription and contribution, each according to his condition, state and circumstances, and in case of opposition or refusal either from any disaffected or ill-disposed persons, which the Director-General and Council do not anticipate, . . . the Burgomasters, with the President of the Schepens are authorized . . . to assess such according to their circumstances, and condition them to constrain to a reasonable contribution and promptly to enforce it by execution."

But the voluntary character of the contribution has not quite disappeared, for Pieter Stuyvesant heads the list and "offers as his share \$20.00 (50 guilders) more than any one else, namely \$60.00 (150 guilders)." Cornelis von Tienhoven "offers \$40.00 (100 guilders)." Johannes De Peyster "is assessed" (getaxeert) at \$20.00 (50 guilders). Domine Megalopensis gives \$20.00 (50 guilders) "of his own free will (vrijwillg)." Six men ask to be assessed and are taxed amounts varying from \$24.00 to \$40.00 (60 to 100 guilders). Of the twenty-six persons who attend the first meeting of the Court all but four offer voluntary contributions. At the following meetings the more reluctant appear. Many offer contributions but are assessed at a higher sum ("pre-

¹ Dutch Records, City Hall, March 13, 1653.

² *Ibidem*, Oct. 11, 1655; N. Y. Col. MSS. 6, 97; *Laws and Ordinances New Netherland*, p. 197.

senteert doch getaxeert"), others offer or are assessed a beaver, still others work at the city work or send their slaves in lieu of a contribution. Some are assessed for their houses, their contributions being avowedly made proportionate to their property.¹ Many of the so-called contributors evidently did not act in good faith, for in 1657, two years later, the Court Messenger had to be empowered to collect the amount due from the reluctant contributors "according to the *assessment* made by the Honorable Director General, etc., in October, 1655."²

Similar quasi-contributions are recorded on Long Island in 1657 and 1661.³ Some "voluntarily promise to give and contribute," others are assessed. In one case a citizen "continues at two beavers and offers two beavers more, for those that are unable to pay what they have promised."⁴

An excellent example of the transition stage, from a contribution to a tax, is furnished by a case in New Castle in 1677.⁵ The inhabitants were asked to contribute to the expense of repairing a broken dam. But in order that pressure might be brought to bear on them, the Court ordered "that the Burgers in generall be called together and yt those whoe will pay pro Rata towards it, To have their parts, but those who Refuse, to Loose their commandage."

Similar examples of the evolution of a tax from a voluntary contribution are to be found in the history

¹Dutch Records, City Hall, Oct. 11-15, 1655.

²*Ibidem*, March 9, 1657.

³Laws and Ordinances New Netherland, pp. 305, 414-15 (Nov. 12, 1661); Col. MSS. 8 : 463 (Feb. 13, 1657).

⁴Dutch Records, City Hall, Feb. 7, 1666-7.

⁵*Doc's Col. History N. Y.* XII, p. 576.

of New England.¹ Contributions led to fixed taxes in support of Harvard College. It was suggested to the Connecticut authorities when the subject of supporting Harvard College was under discussion, that "if it were commanded by you, and left to the freedom of every family which is able and willing to give throughout the plantations, to give but a fourth part of a bushel of corn, or something equivalent thereto, and for this end, if every minister were desired to stir up the hearts of the people once in the fittest season of the year, to be freely enlarged therein, and one or two faithful men be appointed in every town to receive and seasonably send in what shall be thus given to them, it is conceded that no man could feel any aggrievance hereby." At this suggestion the Connecticut Assembly passed a law, ordering two men to be appointed in each town, "who shall demand what every family will give."

In New York "voluntary contributions" for specific purposes are mentioned, in 1664 and 1671 for the support of the minister, and in 1689 and 1692 for the defense against enemies.² Even the above-mentioned forced loan of 1674, is called a "tax and contribution list."³

Long after the contribution had ceased to be in any way voluntary, and had become a tax, the name "contribution" is retained, quite in keeping with the

¹Blackmar, *History Federal and State Aid to Higher Education*, p. 87, 103.

²Dutch Records, City Hall, Feb. 22, 1664; Records Common Council, July 16, 1671; Doc'y *History N. Y.* II, p. 59 (Sept. 23, 1689); Doc's *Col. History N. Y.* III, p. 822, (March 7, 1692.)

³Valentine, *History N. Y.*, p. 315.

custom of calling the Governor's salary a "free and voluntary gift."¹

A singularly parallel development, is to be found in the history of the English poor rate—

"At first they only claimed voluntary gifts, collections in churches, made at first in midsummer, afterwards more prudently postponed to Christmas. Very soon the appeal for voluntary aid was followed by exhortations to the richer folk, to give of their abundance. Soon the caitiff who would not give, was to be delated to the bishop, who was to exhort him . . . Very soon compulsion followed. The rich but covetous man, who remained obdurate, was to be sent to gaol and an assessment levied on his goods. Finally, a general assessment was ordered."²

Review of Period 1623-1683.

The property tax gained a firm foot-hold with the establishment of the Colonial Assembly in 1683. In the Charter of Liberties of that year,³ it was provided

"That noe Aid, Tax, Tallage, Assessment, Custome, Loane, Benevolence, or Imposition whatsoever shall be layed, assessed, imposed or levyed on any of his Majesties Subjects within this Province or their Estates upon any manner of colour or pretence, except by the act and consent of the Governor, Council and Representatives of the people in general assembly, mett and assembled."

The regulation of the provincial finances was thus put into the hands of the Colonial representatives, and a study of Colonial laws from that time down to the Revolution, is the best source of information regarding the development of the property tax.

Before we examine these laws, it will be well to review the results we have so far reached, covering

¹Records Common Council, Nov. 7, Dec. 10, 1683. Dongan's Laws, 1683-84, p. 56.

²Rogers, *Economic Interpr. History*, p. 242. Cf. Gneist, *Englishe Kommunaleverfassung*, (1863) I S. 275-81; Sinclair, *History Pub. Rev.* I, p. 101.

³State Library, Albany, Doc's Col. *History*, N. Y. III, pp. 357 ff.; Brodhead, *History N. Y.* II, p. 659.

as they do the first sixty years of the colony's history.

We called attention to the disordered finances and prevailing system of indirect taxes under the Dutch, the gradual development of a direct tax on property beginning as a voluntary contribution or as an unusual method of raising a revenue for a special purpose, and becoming a full-fledged tax under the English rule.

The reasons were given for our belief that the introduction of this form of direct taxation is to be ascribed to the English, in whose history this tax-form has always played a prominent part. Of course one must not lay too much stress on this supposed connection between the tax systems of England and of New York. England had outgrown the cruder form of a general property tax, and besides it was not a question of introducing a new fiscal system into a well-ordered community like an annexed province. Still it was the Duke of York and his government who gave the development of the New York tax system an entirely new direction, and whatever theoretical principles the English authorities had in mind in framing tax laws for the Colony they were moulded, perhaps unconsciously, by the centuries' experience of English direct taxation.

Aside from the English influence, the economic conditions of the Dutch possessions, and a comparison of them with those of New England, largely explain the development of their taxes.

The English settlements in New England were primarily agricultural colonies, the Dutch settlements trade colonies. However highly the trade of New England was spoken of, that section of the

country was chiefly devoted to agriculture. The fruitful Connecticut valley and eastern Long Island were early settled by a farming population.

On the other hand, the Dutch in New Netherland were primarily traders, the best evidence of which was the character of the West India Company.¹ Although the first emigrants in 1623 were sent out as agricultural settlers, they soon desert their fields and hasten to make treaties with the Indians and engage in the profitable fur trade.² While the New Englanders were protecting themselves against the Indians, the Dutchmen were extending their trade up the Hudson and into the interior.

This difference in the character of the settlers of both districts, New England and New Netherland, goes a great way to explain the difference in the tax systems they adopted in the early years of their existence. In New England there was no extensive trade which made indirect taxation expedient. The settlers lived in separate communities, each adult owning and working his own farm. Naturally enough the authorities turned to the possessions of the farming population as a proper object of taxation. Every farmer's real and visible property, his house, farm and cattle, were taken as a measure of his ability to contribute to the common expenses, and he was taxed accordingly. Under the then existing circumstances such a general property tax was both just and expedient.

In New Netherland on the other hand a class of farmers came into existence much later than in New

¹ Brodhead, *History N. Y.*, I, p. 747; Bancroft, *History U. S.*, I, pp. 496 ff.

² Brodhead, *History N. Y.*, I, pp. 150-2; Doc'y *History N. Y.*, III, pp. 35-36, 44-45.

England. About the middle of the century, after the curtailment in 1638 and 1640 of the privileges of the West India Company and of the Patroons, agricultural village communities sprang up. The Hudson valley filled up with agricultural settlers, Walloons from Belgium, Huguenots from France, Waldensians from Piedmont and Puritans from New England.¹

As long as the Colonists were traders at New Amsterdam and Beverwyck, or were scattered along the river, their possessions consisting almost entirely of moveable goods, a property tax was difficult to introduce. Even in the agricultural districts of Long Island and the Delaware valley, the property tax when introduced was only collected with difficulty.² In the words of the Court at New Castle:³

"The people live distant and their Estates (are) for the most part very Inconsiderable; that we can find no proper way to discover the value of their sed estate, and if discovered to bring it in a Valuable shape to Receive. But if your Honor will be pleased to allow of a Levy to be Laid by the Pole, as they of Virginia and Maryland doe and have continued it for so many years, not finding out a more easier and better way, then ye Levy can be easier made and Received."

The difficulty of collecting a property tax had been obviated by introducing a pole tax on Long Island in imitation of the similar tax in New England.⁴

COMMONDAGE AND QUIT RENTS.

In all early communities we are accustomed to find extensive tracts of land held in common possession. As a source of revenue commandage in New

¹ Elting, *Dutch Village Communities*, pp. 18, 22; Doc's Col. History N. Y., XIV, pp. 332-3; Brodhead, *History N. Y.*, I, pp. 407, 734.

² *Col. History N. Y.*, XIV, p. 602.

³ *Ibidem*, XII, p. 590 (Feb. 8, 1677).

⁴ *Ibidem*, III, p. 304.

Netherland and New York never was of great importance. We find it mentioned on the island of Manhattan in 1669,¹ while many of the village communities along the Hudson held considerable pasture and wood land in common until a late date,² quite like the Teutonic "Markgenossenschaften," the Commons of the town of Hurley being divided by an act of the State Legislature, April 4th, 1806.

The system of quit rents was never developed into a distinct land tax. In the time of the Dutch, public lands had been leased to settlers for the yearly payment of a small quit rent. This system was adopted by the English, who derived some revenue from this source. At first it had some significance. In 1678 public lands were leased at \$0.40 to \$1.50 (30d to 100d) per 100 acres.³ These low rates were, it seems, never raised. There was great laxity in collecting the rents,⁴ and the proposal of Governor Hunter to derive a large revenue from this source went unheeded. He writes in 1710 to the Lords of Trade:⁵

"There is one thing I would propose to your Lordships. . . . In the infancy of the English government here Lands were granted without any reservation of Quit Rents. . . . Others were granted with a reservation of such Quit Rents as then were or should thereafter be established by the Laws of this country, others, . . . are under a very inconsiderable Quit Rent; Those granted . . . are with Reservation of 40 cents (2s. 6d.) each 100 acres, but the quantity is so small and there is so little in her Maj'.

¹ Records Common Council, August 31, 1669.

² Elting, *Dutch Village Communities; Laws of N. Y.*, 1710. An act for the easier Partition of Lands in Joyst Tenancy or in common (1708).

³ Doc'y *History N. Y.*, I, p. 50.

⁴ N. Y. Col. MSS., 33 (May 20, 1684); Minutes Common Council, April 2, 1756, Feb. 13, 1764; Laws, Oct. 18, 1701; Jan. 8, 1762.

⁵ Doc's Col. *History N. Y.*, IV, p. 179 (Nov. 14, 1710).

gift, that if all were patented, the Quit Rent would amount to a very inconsiderable sum, so that if your Lordships thought fit to advise the passing of an Act of Parliament at home that all lands within this province granted or to be granted should pay to her Majesty a Quit Rent of 60 cents (2s. 6d.) I believe it would goe a great way in raising a Fund sufficient for the government here."

In 1686 and the following years the provincial quit rents amounted to¹—

	Quit Rents		Duties.		Excise.	
1686	£291.4	\$1,000.00	£.....	\$.....	£.....	\$.....
1691	21.12.6	75.00	2521.2.11 $\frac{1}{4}$	8,500.00	203.12	670.00
1693	38.11—	130.00	1916.8. $\frac{1}{4}$	650.00	665.16.6	2,250.00
1694	149 — $\frac{1}{2}$	500.00	3055.11.3	10,300.00	862.4.10	500.00
1695	36.17.6	125.00	23.13.17.10 $\frac{1}{4}$	7,850.00	919.18.2 $\frac{1}{4}$	3,100.00
1698	165.4.9	550.00	.....	.....	.....	.....
1699	— 10.19	2.00	.....	.....	.....	.....

Their irregular character and small amount is apparent when compared with the amount raised by duties and excise. In 1692 no revenue from quit rents is mentioned, and throughout the eighteenth century quit-rent revenue is only referred to here and there.² No pains were taken to collect the revenues—the best proof of which are the numerous laws "for the more easy collecting His Majesty's Quit-

¹ Doc'y Hist'y N. Y., I, pp. 477, 702; N. Y. Col. MSS. 33.

² Doc's Col. Hist'y N. Y., I, p. 519.

rents,"¹ and the attempt on the part of the English authorities during the Revolutionary war to induce the lease-holders to commute their annual quit rent by the payment of a round sum.

Quit rents were continued under the State government.² Municipal quit rents in New York City will be discussed below. The system was allowed to dwindle, and in its present form remains only as a faint reminder of early Colonial conditions.

The quit rents raised by the Patroons have a similar history, and were brought into prominence by the celebrated Anti-Rent-Agitation of 1836-46.³

III.

1683-1777.

The real history of the New York property tax begins with the establishment of the Colonial Assembly in 1683. From that time on, this tax form was developed in a uniform way, the fundamental principle of taxing every person in proportion to his aggregate property always remaining unchanged. Monotonous uniformity has characterized the development of the property tax, but in this uniformity lies its historically interesting feature.

COLONIAL DUTIES AND EXCISE.

The Colonial revenues from duties and excise we may dismiss with a few words.

¹ Acts Jan'y 8, 1762, Oct. 18, 1701; Doc's *Col. Hist'y N. Y.*, VII, p. 901. Minutes Common Council, April 2, 1756, Feb. 13, 1764.

²Cf. *Laws N. Y.*, 1806, ch. 171, p. 599; 1816, 1817, 1818, ch. 281, p. 302; 1819, ch. 222, p. 291.

³Cheyney, *Anti-Rent-Agitation in N. Y., 1836-46.*

The "Continued Bill for defraying the Requisite charges of the Government," and an "Explanation" of that bill of 1683¹, had put the import and export duties on a firm footing. The revenue from this source, though nominally "settled upon His Majesty, then His Royal Highness and his heirs, by Act of Assembly,"² at the request of the Duke of York, who wished and expected some certain revenues to be provided him,³ was "*continued*" from year to year. Such laws, "granting to His Majesty the several Duties and Impositions on Goods, Wares and Merchandizes imported into this colony," were those of 1691, 1692, 1740 and 1753.⁴ It is to be remembered that inasmuch as the revenue from duties flowed into the Royal treasury the colonists cared little about the regulation and collection of duties. The revenue from this source was beyond their reach, and only indirectly played a part in the provincial finances.

The collection of excise duties was regulated by "An Act for laying an excise on all Strong Liquors retailed in this colony," of October 13, 1713, and by an additional law of March, 8, 1773.

During the '90's of the seventeenth century the annual revenue from duties and excise averaged \$8,500 and \$2,700 (£2,500 and £800), respectively,⁵ while in the '20's of the eighteenth century the revenue from duties averaged \$11,000 (£3,360) annually, and in the '50's and '60's \$20,000 (£5,800).⁶

¹Dongan's Laws, State Library, Albany.

²Doc'y, *Hist. N. Y.*, I, p. 103.

³Doc's *Col. Hist'y N. Y.*, III, pp. 317-18; Brodhead, *Hist'y N. Y.*, II, p. 358.

⁴*Laws N. Y.*, 1694, p. 21, 58; Doc's *Col. History N. Y.*, VII, p. 907; *Laws N. Y.*, 1752 (Nov. 3, 1740); *Laws N. Y.*, 1774 (Dec. 12, 1753.)

⁵N. Y. Col. MSS. 33; Doc'y *History N. Y.*, I, p. 477.

⁶Doc'y *History N. Y.*, I, p. 703.

During the ten years preceding the Revolution the duties and excise had netted \$13,500 and \$2,500 (£5,000 and £900) on an average.⁴ The Colonial revenue from goods sold at auction, and from hawkers' and pedlars' licenses averaged £1,000 annually during this last period.

Tax Laws of the Colonial Assembly.

We can now return to the property tax and trace its development at the hands of the Colonial Assemblmen. After organizing and accepting the royal Charter of Liberties in October, 1683, they passed on November 1st, 1683, a general Tax and Assessment Law which deserves especial attention as the first of its kind. It is entitled "An Act for the defraying of the publique and necessary charge of each respective City, Towne and County throughout This Province and for maintaining the poor and preventing Vagabonds,"¹ and reads :

"Bee It Enacted by the Governor Councell and Representatives in General Assembly and by the Authority thereof, That annually and once every yeare there shall be Elected a certaine number out of Each respective City, towne and County, throughout this province, To be Elected and Chosen by the Major part of all the freeholders and freemen, which certain number soe duly Elected, shall have full power and authority to make an Assesement or certaine Rate within their respective Cittyes, Townes and Countys, annually and once every yeare, which assessment and certaine rate soe Established as aforesaid shall be paid in to a certaine Treasurer, who shall be Chosen by the Major part of all the freeholders and freemen of Each respective City, Towne and County ; which Treasurer soe duly Chosen shall make such payment for the Defraying of all the publique and necessary Charges of Each respective place above mentioned, as shall be appointed by the Comiconers or their President, That shall bee appointed in Each

¹ *Journal General Assembly N. Y., 1766-76; Valentine's Manual for 1851*, p. 391.

² Dongan's Laws, State Library, Albany, p. 26.

respective City, Towne and County, within this province for the Superviseing the publique affairs and Charge of Each respective City, Towne and County aforesaid. And bee It further provided by the authority aforesaid, That the Treasurer for Each respective City, Towne and County shall keep a distinct booke of accounts Containing a particuler account of all the moneys, rates and Assessments aforesaid, And alsoe of all disbursements and payments of money by warrants aforesaid, and once in Every yeare he shall bring his accounts to such persons as shall be appointed for the Audit of the same under the penalty of one hundred pounds, Except prevented by death or Sicknesse. And farther, whereas it is the Custome and practice of his Maties Realme of England, and all the adjacent Collonyes in America, That Every respective County, City, Towne, parish and precinct doth take care and provide for the poor who doe inhabit in their respective precincts aforesaid, Therefore it is Enacted by the authority aforesaid, That for the Time to come the respective Comiconers of Every County, City, towne, Parish, Precinct aforesaid, shall make provision for the maintenance and Support of their poor respectively.

"And for the Prevention and discouraging of vagabonds and idle persons to come into the province from other parts, and alsoe from one part of the Province to another, Bee it Enacted by the authority aforesaid That all persons That shall come to inhabit within this Province or any part or place thereof and hath not a viisible Estate, or hath not a manual Craft or occupacon, shall before he be admitted an Inhabitant give Sufficient Surety That he shall not be a burthen or Charge to the respective places he shall come to inhabit in, which Security shall continue for two yeaeres, Provided Alwayes That all those that have manual crafts or occupacon may at all times come and inhabitt in any part within this province, and be alwayes admitted, Provided he maketh Applicacon Eight dayes after his arrivall into any City, Towne or County aforesaid unto such person or persons as are appointed for the Governing the respective parts aforesaid And alsoe all vessells That shall bring any passengers into this Province, the Master of any such Vessells shall within four and twenty hours after arrivall bring a list of all such Passengers he brings into this province with their quality and Condicons unto the Cheife Magistrate of Each respective City, County, towne aforesaid, under the penalty of tenne pounds Curant money of this Province, Alwayes provided That if any Vessell bring in any person not qualified as aforesaid, nor able to give Surety for their well demeanour, That then and in such case the Master of said Vessell or vessels shall be obliged to transport all such persons to the place from whence they came, or at least out of

this Province and dependencies, And alsoe if any Vagabonds beggars or others remove from one County to another and cannot give Security as aforesaid, It shall be lawfull for the constable to return such persons to the County from whence they came."

The close relation existing between local taxation and the maintenance of the poor is noteworthy as a parallel to the development of English local taxation.¹ A great deal of attention is given to the mode of collecting the tax and to the treasurer in the law, a faint reminder of the voluntary contributions.

The collectors and treasurers were at first not very trustworthy officials, and numerous acts were intended to force those "who have been empowered to receive any . . . moneys, who shall not make due payments of the sum . . . to make satisfaction . . . out of . . . their owné proper estate, and alsoe to pay tenne pounds damage for every hundred pounds which they shall be found in arrears . . . "²

Later laws brought home the loss incurred by dishonest officials to the taxpayers, who had elected them. In the case of New York City "the inhabitants of such Ward, as have chosen such collector or constable so offending shall make good the Loss and Damage in that Behalf, by a fresh levy upon themselves, and not upon the inhabitants of the whole city, as has been formerly."³

Similar laws were passed for other counties.⁴ This difficulty of obtaining trustworthy officials was partly

¹ Cf. Roger *Economic Intrepr. History*, p. 479 ff. Wagner *Finanze*. III, § 76, s. 173; § 159, s. 351.

² Act Oct. 27, 1684, Dongan's Laws, p. 56.

³ Act July 21, 1715.

⁴ Richmond, July 24, 1724; Westchester, April 11, 1769; Dutchess and Ulster, April 3, 1775.

overcome in time, perhaps by requiring bonds on entering upon office. The New York City sheriff's and chamberlain's bonds run back to 1740 and 1748 and amounted then to £1000 (\$4,800), forty years later to £2000 (\$9,600).¹ However as late as 1772 the Colonial treasurer misappropriated the funds entrusted to him, and speculated in imported goods which were late in arriving and thus led to his exposure. He excused himself by saying, "I thought it would be a public benefit to circulate the surplus in a commercial way." Great consternation followed in the Assembly. Resolutions condemning such practices were passed, but the treasurer it seems was left unmolested.²

A second and much more serious difficulty very soon appeared. An impartial and correct assessment proved to be an impossibility. In 1692 the Assembly addressed a petition to the Govenor which reads:³

" . . . that there may be a certain method for the equal and proportionable assessing of subsidies, We doe pray that his Excell. would appoint Commissioners in each respective County for the making an Estimate of their Estates, that for the future there may not be such uncertaintyes."

This attempt to do away with a difficulty which is inherent in the character of the property-tax, by interference and regulation on the part of the higher authorities, appears again and again in New York history and is at present embodied in the institution of State and County Boards of Equalization.

Another attempt, but of a different kind, to do away with the difficulty of a correct assessment, is that of establishing fixed values at which all kinds of property are to be assessed, which appears in vary-

¹Record Room, Finance Department, New York City.

²Journal N. Y. Assmby 1766-76. Feb. 19, 1772.

³Journal Legisl. Council, p. 23, Sept. 9, 1692.

ing form in the tax laws of the eighteenth century. Thus it was proposed in 1693¹ to assess arable and pasture land according to its annual yield, and other property, such as slaves, horses, cattle, sheep and goats, at varying sums. A similar law was passed on September 29, 1709 and renewed in 1710 and in 1711.

But such a cast-iron assessment law did not suit the easy-going methods of the people, and the law soon fell into disuse. In 1775 complaint is made that "the method heretofore practiced for the taxation of Estates in the County of Orange hath not been as equal and just as it is conceived it might be,"² and an elaborate schedule is drawn up of the values at which each kind of property should be assessed. The tax-payer was to give an account of his land and other property, and a penalty was provided as usual for cases of concealment.

The general assessment laws of 1691, 1701 and later years are modelled after the law of 1693 discussed above.³ The election of two or more freeholders to "assess and establish a certain rate upon each of the Freeholders and Inhabitants within their respective towns," the election of a supervisor, treasurer and collector, and provision for levy by distress in case of refusal to pay are the salient features of these laws. The general law of June 19, 1713, regulating the election of assessors remained practically unchanged and in force till Revolutionary times.

By the end of the seventeenth century the property tax had become well established in the Colony, as is proved by the wording of the large number of tax

¹Journal N. Y. Assembly, March 9, 1693.

²Act April 3, 1775.

³Acts, May 13, 1691; Oct. 15, 1701; June 19, 1703.

laws of that period.¹ The county authorities were authorized to raise certain sums from the real and personal estate of all inhabitants of the county, either to cover the county expenses or as its contribution to the provincial expenses.

In New York City the assessment books of this period are still preserved.² In 1688 the assessment list of the city's seven wards amounted to £78,231 (\$265,000).³ A good example of an assessment list of this period is one of 1699 entitled :

"Assessments of the Estates, Real and Personal of ye Inhabitants, Freeholders and Sojourners of the City of New Yorke for the Raising of the sum of 400 lbs. (\$1350) by authority of an Act of Genl Assembly of this Province—entitled An Act for the enabling the City of New Yorke to pay their Debts and to Erect and Repair their publick buildings, the same being to be employed for the building a new Citty Hall within the said City and the house att the Ferry Pursuant to the Directions of the Mayor, Recorder, Aldermen and Assistants of the said City and Poorhouse of ye Publick Works and buildings made the 29th day of November 1699 at the Rate of Seaven farthings and four White Wampum in the pound (approximately 2½ in the £ or not quite 1%)."

The list is signed by two assessors for each ward and is audited by the Mayor and three Aldermen. The amount raised was £370.11s. (\$1,250).

Similar assessment lists of 1700 and later years are in existence. The taxpayer's "house," "lott," "ground" or "estate" were assessed, and evidently no attempt was made to reach his personal property. In the assessment made December 25, 1702, the

¹Acts, May 31, 1687; Aug. 20, 1687; Sept. 2, 1689; April 19, 1692; Aug. 14, 1692; March 24, 1694-5; May 16, 1699; Minutes Common Council, Aug. 24, 1685; Sept. 15, 1685; Nov. 2, 1688; Jan. 25, 1693-4.

²Assessment Books 1699-1709; Tax Books 1709-34, N. Y. Comptroller's office.

³Minutes Common Council, Nov. 2, 1688.

valuations range from £5 to £600 (\$17.00 to \$2,000), the latter sum occurring but once. The number of persons assessed in 1703 was 1,450, and in 1735 was 2,325. The valuation of taxable property in 1699 amounted to £46,250 (\$150,000), in 1704 to £38,900 (\$130,000) and £37,240 (\$125,000) by two different valuations, in 1715 to \$33,925 (\$110,000) and in 1722 to £40,107 (\$135,000.)

The provincial property taxes were raised by distributing them among the various counties. A glance at the quota thus raised in each county at different times gives one an interesting view of the somewhat arbitrary distribution. The quota in each county, in per cent. of the whole sum raised, amounted to: (See table on opposite page.)

Allowing for the difference of time, New York evidently increasing much faster in wealth than the other counties, it is apparent that the legislators were at times very arbitrary in dividing the sum to be raised for the province among the different counties. Only in part is this irregularity explained by the fact, that in the case of raising money for the protection of some one county, as of Albany in 1692, that county is exempted, or at least its burden is lightened, at the expense of the others. This motive is distinctly avowed in the laws of 1747: "In consideration of the present distressed circumstances of the Inhabitants of Albany, by the Ravages of the Enemy, it (the quota) being one-third less in Proportion to the last Tax of that County; the said Deduction being now laid on the other counties in proportion."

There is no need of reviewing the great mass of tax laws, general and special, passed by the

Colonial Assembly during the eighteenth century. No material progress is made in the wording and carrying out of the laws.

Complaints are often heard. The frequent regulations of levies by distress, as in 1691, 1701, 1744 and 1769, as well as the arrears in taxes mentioned in 1674, 1703, 1710 and 1711¹, indicate the great difficulty of collecting the tax.

Counties.	1688	1691	1691	1692	1702	1709	1709	1709	1746	1746	1747
New York...	17	23	30	23	21.1	20	22.1	22	21.8	33	35
Albany.....	9.4	10	9		6	10	4.3	8.5	7.6	14	14
Kings.....	11.1	15	13	14	14.8	12	18.2	14	14	6	5.8
Queens.....	11.1		13	15	18.5	19	16.1	15	17.6	11	11.7
Suffolk.....	17	20.2	17.5	20	18.5	17.2	17	15	17	10	10
Westchester.	7.2	8	7	8.5	6.2	6	6	8	7	5	5.2
Richmond...	7.2	6.9	6	4.5	4.5	4	5.6	5	5	3	3.2
Orange.....	.3	.85	.75	1	2.2	1.6	1.5	2.4	1.6	3	3
Ulster.....	16				7.2	8	7.8	8.9	8	9	9
Duchess.....		13.9	12.5	14							9.5
Dukes.....					.9	2.2	1.1	1	1.6	4	4
Notes.....	1.5	1.4	1.25								4.3
	1	2	3	4	5	6	7	8	9	10	11
											12

¹Act, May 3, 1688.

²*Laws N. Y.*, 1694, p. 27.

³*Ibidem*, p. 40.

⁴*Ibidem*, p. 46 (April, 1692).

⁵Act, Nov. 13, 1702.

⁶*Laws N. Y.*, 1710, p. 83 (May 24, 1709).

⁷*Ibidem*, p. 97 (Nov., 1709).

⁸Act, Nov. 2, 1709.

⁹*Laws N. Y.*, 1710, p. 103 (Nov. 12, 1709).

¹⁰Act, May 3, 1746.

¹¹Act, July 15, 1746.

¹²Act, Nov. 25, 1747.

The tax legislation of the last century was characterized on the one hand by a desire to make the existing tax system more effective, and on the other hand by the anxiety it displayed not to hurt the feelings of the taxpayer. Thus the above-mentioned measure of fixing certain values at which different kinds of property were to be assessed was again and again adopted, always to be repealed or to fall into disuse soon afterwards, owing to the severe pressure it brought to bear upon the unfortunate taxpayer. Either the ignorance or the good will of the assessor has always stood in the way of assessing property at its full market value. These shortcomings are of course encouraged by the method of electing assessors, and are therefore as much due to the laxity of conscience in the community as to the assessors themselves.

The Assembly repeatedly sought to spur on the assessors to the fulfillment of their duty by changes in the wording of their oath of office. In 1691 they were bound by oath: "Well, truly, equally and according to their best understanding to assess and rate the Inhabitants, Residents and Freeholds of the respective places for which they shall be chosen Assessors."¹ The tax law of May, 1691, "which hath been by experience found to be very inconvenient and burdensome to the inhabitants of

¹*Laws N. Y.*, 1694, p. 29; *Acts*, Oct. 18, 1701; May 19, 1744; May 20, 1769; *Records Common Council*, Feb. 24, 1674; *Governor's Message*, Oct. 14, 1703; *Laws N. Y.*, 1726; *Minutes Common Council*, Jan. 19, 1710.

²*Laws N. Y.*, 1694, p. 99; Cf. *Laws N. Y.*, 1710, p. 103 (Nov. 12, 1709.)

this Province, and hath occasioned many Heats, Animosities, Strifes, and Debates and other differences . . . ¹ was amended in May, 1703, "forasmuch as many Disputes, Cavils, controversies and Mistakes have happened and been occasioned as well by the generality of the words . . . as many other omissions and defects experience has found and observed in the same," and the assessors were required "Equally, Duly and Impartially to assess and make a rate for their respective Proportions, being first Sworn Equally, Duly and Impartially to make such assessment."

In a similar law of 1721,² this warning is addressed to the assessors: "You shall spare no person for favor or affection, or grieve any person for Hatred or Ill-will." This well-meant advice bears a close resemblance to the Pennsylvania assessor's oath of the same period:³ "Thou shalt well and truly . . . cause the rates and sums of money . . . to be duly and equally assessed and levied according to the best of thy skill and knowledge; and herein thou shalt spare no person for favor or affection, nor grieve any for hatred or ill-will."

But the legislators were not always satisfied with such vague and well-meant admonition, and in 1764 the following assessor's oath was framed:⁴ "I, A. B., do swear upon the Holy Evangelists of Almighty God, that I will well and truly, equally and impartially, and in due proportion, according to the best of

¹Act October 18, 1701.

²Act July 27, 1721: "An Act for the more Equal and impartial assessing the Minister and poor tax to be raised in New York, Queens, Westchester and Richmond counties."

³Worthington, *Finances of Pennsylvania*, p. 78.

⁴Act October 20, 1764.

my understanding, assess all the whole Estates, real and personal, of all the Freehold's, etc., within the city of Albany. So help me God."

The provisions regarding the manner of obtaining the value of assessable property always remained indefinite. The law of March 19, 1774, goes as far as any in prescribing that "Assessors . . . shall . . . make an assessment in the manner following, to wit: they shall proceed from house to house, throughout the said county, till they have gone thro' the whole, and shall make out a true and exact List of all the names of the Freeholders and Inhabitants of the said county, and against the names of every such person shall set down the value of all his or her estate, real and personal, as nigh as they can discover the same to be within the same county."¹

The democratic spirit of our country has always been opposed to a strict enforcement of the assessment laws. Every attempt to make their provisions more stringent has been half-hearted. A self-valuation under oath by the taxpayers has never been attempted in New York. The constitution of California contains a provision (Art. XIII, Sec. 8) requiring "each taxpayer . . . to make and deliver to the county assessor, annually, a statement, under oath, setting forth specifically all the real and personal property owned by such taxpayer, or in his possession." . . . The Political Code of the State (Part III, Title IX, § 3629-3633) enlarges this provision. Such treatment of the taxpayers was and is unknown in New York. In 1770 it was thought sufficient to provide² that "every person, subject to

¹Cf. Act Dec. 17, 1743.

²Act Jan. 27, 1770.

such tax or charge shall at all times, when required by the assessors of the precinct wherein he resides, or either of them, give him or them a view of all the improved land in his occupation and a just account of all the horses, cattle and chattels, which are his property and ought to be subject to such tax or charge." But the saving clause was added: "Provided always that nothing herein contained shall be construed to oblige any person to give in any account of any sums of money due to him, or of his househould furniture, jewels, plate or wearing apparel."

Concealment of property was always subject to a heavy penalty,¹ but was probably never enforced any more than the demand for the account of his property from the taxpayer.

The utter impossibility of reaching the great mass of personal property which has become so painfully evident in the tax history of this century, was early recognized in colonial legislation. As long as taxable property was almost entirely included under the categories, land, houses, cattle and agricultural implements, it was a matter of no great difficulty to reach it and assess it at nearly its true value. But as soon as movable property began to increase under the stimulus of trade and industry, the difficulty became greater and greater of forcing non-land-owners to bear their just share of the public burdens.

The earliest attempt to obviate this difficulty is to be found in the legislative measures directed against itinerant merchants. In addition to those cited above, we may mention the law of 1741, (renewed in 1745

¹ Cf. Act Jan. 27, 1770.

and 1755),¹ which obliged "all persons that shall come to inhabit in the city of New York, in order to expose any goods, wares or merchandise to sale at any time after the annual assessment made for the tax for the maintenance of the minister and poor of the said city, to pay their due proportion to the same."

In Albany (and similarly in Schenectady) the assessors² were "to inquire whether anybody moves into Albany after the date of assessment to do business. . . . they must demand a true account on oath or affirmation of the value of their goods which they bring into the ward, and shall rate them like other inhabitants."

On the one hand, there must have existed a class of poor as early as 1683, as is indicated by the general assessment law of that year; on the other hand there must have been a well-to-do class, whose property was largely personal, that is, movable. At first freeholders were the only taxpayers.³ As soon as the class of property owners was no longer co-extensive with the class of freeholders, the laws recognize as taxpayers the four classes of freeholders, inhabitants, residents and sojourners. Residents apparently included subjects that were possessed of personal and not real property, while sojourners, of course, included only temporary residents of the province. Similar divisions of property owners, *i. e.* of taxpayers, are noted in many tax laws of the seventeenth century.⁴

¹ Acts Nov. 27, 1741; May 14, 1745; Sept. 11, 1755; Cf. *Laws N. Y.*, relating to N. Y. City, 1833, pp. 4-5.

² Act, Feb. 19, 1756.

³Cf. Act, May 24, 1709.

⁴Acts, Nov. 12, 1709; July 24, 1724: July 5, 1755; Oct. 20, 1764; January 31, 1775; Minutes Common Council, Jan. 10, 1769.

The form of the eighteenth century tax laws remained almost unchanged. The county officers superintended the finances of the county as well as of the subordinate corporations. They decided on the county rate, and arranged for the election of town assessors. Of the aggregate property as assessed by the latter, a certain percentage was raised to cover the town and county expenses, or, as the county's quota to a provincial tax as fixed by the Colonial Assembly.

Oliver Wolcott's report on Direct Taxes (Dec. 14, 1796),¹ though covering only State taxes, applies as well to the lesser corporations and furnishes us with a review of the condition of local taxation in the United States toward the end of the last century. The tax system of New York is described as follows:

"No objects of taxation are defined in the laws nor any principles of valuation prescribed. The amount of a tax upon the State being declared, the Legislature determines the quotas to be paid by the counties, the supervisors of counties determine the quotas of towns, which last are apportioned to individuals by assessors; no provision has been made for requiring a disclosure of the property owned by individuals; of course, all assessments by the Legislature, by supervisors and assessors are determined by a discretionary estimate of the collective and relative wealth of corporations and individuals."

In Rhode Island, Delaware and Maryland the property tax had been developed on similar lines. In the other States certain objects of taxation were defined and their valuation regulated by law. In some States land was divided into various classes, according to quality and mode of cultivation, each class being taxed at a fixed rate. In other States horses and cattle were specially taxed. In New

¹ American State Papers, vol. 7. (Finance, vol. 1), No. 100, p. 414 ff.

England and in some of the Southern States a pole or capitation tax was raised. However the tax systems of the various States differed, the principle at the foundation of all of them was the same, namely the principle of finding the measure of an individual's ability to pay taxes in the aggregate amount of property in his possession. In New York this principle seems to have been most strictly adhered to.

IV.

1777-1890.

The Revolution and the establishment of the Confederation brought about little or no change in the New York tax system. The Federal Constitution of 1789, however, introduced a factor which was of lasting influence on the development of State and local taxation. By constitutional provision the States once for all lost their right to derive revenue from export, import and tonnage duties. Aside from these direct provisions the State and local taxes were left to compete with the Federal taxes.¹ In this competition the Federal government has always proved itself the stronger party. By adopting a system of indirect taxes (duties and internal revenue taxes), the Union took possession of the most copious and easily managed sources of revenue and drove New York, like the other States, involuntarily to the extension of its property tax. The framers of the Constitution did not fully realize that its tendency would be to develop federal and local taxation on such different lines. Still the *Federalist* acknowledges that² "the Laws

¹ Von Holst, *Staatsrecht*, d. v. St. A. ss. 66, 160.

² The *Federalist*, No. 34 (Jan. 8, 1788.)

cannot . . . in a legal sense interfere with each other, even in the policy of their different systems. An effectual expedient for this purpose will be mutually to abstain from those objects which either side may have first had recourse to. . . . A small land-tax will answer the purpose of the States, and will be their most simple and fitting resource." The future extent of local direct taxes was certainly not appreciated by the statesmen of 1787.

In the city of New York the revenues from other sources than the property tax had been developed during the Eighteenth century. Ferry rent had steadily increased from £145 (\$480) in 1701 to £1,362 10s. (\$3,700.00) in 1799; dock rent from £25 (\$85) in 1703 to £4,155 5s. 9½d. (\$1,100) in 1799; market rent from £72 10s. (\$240.00) in 1736 to £790 10s. (\$2,100); house and land rent from an insignificant sum to close upon £1,000 (\$2,300); water-lot rent from £33 1s. 2½d. (\$100) in 1735 to £927 13s. 1d. (\$2,500) in 1800; tavern licenses from £51 10s. 3d. (\$170) in 1702 to ten times that amount toward the end of the century. The slaughter-house, the rope-walk, the powder magazine, the poor-house, the brick-yard and the public crane were all at times sources of revenue. But all these sources of revenue were insufficient to cover the expenses of a city of growing importance.¹ A wiser policy would have improved them and made them more abundant, but as it was, the property tax, which at first was merely supplementary to these "Sundry Branches of City Revenue," as they are called in the New York City Ledger, came gradually to overshadow them in importance. But more of this below.

¹N. Y. City Journals and Ledgers, Minutes Common Council, Dutch Records, City Hall.

Another factor which has been of influence on the development of the New York property tax is the former close relation between full citizenship and ownership of land. The right of suffrage was based on the possession of land before the arrival of the English.¹ By the Charter of Liberties (1683)² "every freeholder within this province, and freeman in any corporation shall have the free choice and vote in the electing of the representatives, . . . and by freeholders is understood every one who is so understood according to the laws of England." "Freeman of any corporation" applies to those who had purchased the freedom of the city of New York, merchants invariably paying twice or three times as much as others.³

By Act of the Assembly, April, 1698, the right of suffrage was limited in a similar way to resident freeholders of £40 (\$194)⁴, "Always provided That the Free men in the corporations of the cities and counties of New York and Albany have liberty to vote in their respective corporations, provided that they have been freemen of the said corporations, and have actually dwelt there three moneths before the Test of any such Writ of Election"

The first New York State Constitution (1777), like the constitutions of the other States, established property qualification for voters, which though

¹Elting, *Dutch Village Communities*, p. 35.

²State Library, Albany; Brodhead, *History N. Y.*, II, p. 659, Act April, 1691: "And by Freeholders is to be understood every one who shall have 40s. per annum from freehold."

³N. Y. City Journal No. 2, 1696-1736; N. Y. City Ledger, 1700-1760; Minutes Common Council, II, 1691-1702.

⁴Cf. Contested Election Cases, involving voters' freehold, Nov. 18, 1768; May 18, 1769; (Journal N. Y. Assembly) and Sept. 29, 1701; (Minutes Common Council.)

amended in 1822, remained in force till 1826, as it did in many other States till a later date.¹

During two centuries full rights of citizenship were enjoyed only by owners of land, which is synonymous with the well-to-do classes, for until the nineteenth century all property was primarily connected with the possession of land. It was natural then that the citizen should pay his share of the public charges according to the size of his property. The democratic tendency of this century has done away with property qualifications to the rights of citizenship (barring the still existing poll-taxes); and although the property tax still remains, it no longer reaches the whole body of citizens. The taxpayers as a class are not coextensive with the voting population. A curious reaction is seen in the attempt to put city suffrage on a property basis.²

State Tax Legislation Since 1777.

The various State Constitutions which were framed at the suggestion of the Continental Congress, during the '70's and '80's of the last century, contain with one exception no reference to any principles of taxation. Our Revolutionary heroes were too much occupied with framing Declarations of Natural Rights to give much thought to matters of taxation. However, the Massachusetts Constitution of 1780 lays down the general principle, that³ "each individual of the society has a right to be protected by

¹Dougherty, *N. Y. Constitutions*; Bernheim, *Ballot in N. Y.*, p. 132. Bryce, *Am. Commonwealth*, II, p. 53; Hitchcock, *State Constitutions*, p. 27; Stimson, *American Statute Law*, §244, 252.

²Adams, *Public Debts*, p. 359. Ford, W., *American Citizen's Manual*, p. 77.

³Part I, Declaration of Rights, X, Part II, ch. 1, § 1.

it, in the enjoyment of his life, liberty and property, according to standing laws. He is obliged consequently to contribute his share to the expenses of this protection." It further provides for a valuation of estates for purposes of taxation every ten years at least.

The Vermont Constitution (Chap. I, Art. 9) curiously enough provided, and still provides, that previous to any law for a tax, the purpose for which the tax is levied ought to appear of more importance to the community than the money would be if not collected.¹

The New York Constitution of 1777 provided that municipal and county officials should continue to be eligible. Aside from this indirect provision no reference is made to taxation. It was left to the State Legislature in its first dozen sessions to give the old established property tax a new lease of life. Thus "An act for defraying the public and necessary charge in the respective counties of this State," passed March 7, 1788, shows no advance on former laws. It enacts:

"That the assessors of each respective city, town and place in every county of this State, shall yearly and every year, as soon as conveniently may be after they are chosen and qualified, proceed to inquire into the value of the real and personal estate of every freeholder and inhabitant within the city town or place, whereof they are assessors; and shall make out a true and exact list of the names of the freeholders and inhabitants of the respective cities, towns and places, for which they shall be chosen assessors; and of such who have estates therein, and do not reside there; and opposite to the names of every such person shall set down the real value of all his or her whole estate, real and personal in the same city town or place, as near as they can discover the same and shall set down the value of the real estate of each person, as aforesaid, in one column and the value of the personal estate of each person, as

¹Ely, *Taxation in Am. States and Cities*, p. 397, quoting Stimson, *American Statute Law*, 1886, §330 B.

aforesaid, in another column of the same list or assessment, leaving room sufficient opposite thereto to insert the sum each person is to pay."

No material advance has been made in the form of the tax laws during the first century of State government. In the case of State taxes as well as in the taxes of the subordinate corporations the proper officials are authorized by the Legislature to raise a certain sum on, or a certain percentage of the estates of all the inhabitants within their respective districts.

A tax of March 28, 1778, made a distinction between real and personal property and taxed the former more heavily than the latter. This proceeding was however exceptional.

In 1799 one more attempt was made to reach the true value of property in the assessment list. The law of April 1st, of that year, provided "that the valuation of houses and lands within this State lately made under the authority of the United States shall as soon as the same be compleated, be deemed to be the value of all such houses and lands for the purposes" of taxation. Real estate, as is seen, was only affected by this law, for the Federal census takers paid particular attention to this class of property. As in former years this law also fixed the value of various kinds of personal property, such as cattle, carriages and slaves, and demanded a list of the same from the owner. But as had always been the case the law proved ineffective, and two years later the assessors were allowed to alter the Federal census valuation of real estate as circumstances required¹, and as regards personal property,

¹Act, April 8, 1801.

they were, as usual, admonished to ascertain its value according to the best evidence in their power.

We need not go minutely into the tax laws of the present century. The following are some of the general provisions which have a decided bearing on the development of the property tax:

An elaborate law of 1823¹ provides that "all real and personal property shall be valued by the assessors for the purpose of taxation at the value they would appraise such estate in payment of a *bona fide* debt due from a solvent debtor." The method of assessment, which was to be at the place of residence of the taxpayer, is described. Exemptions like those now in force are provided for. They covered Federal and State property, the property of colleges and academies, schools, churches and public libraries, almshouses and similar buildings, and the personal property of clergymen to the amount of \$1,500. The reduction of his assessments by the taxpayer, on his taking oath, is made possible. Incorporated companies are to be taxed like individuals, the cashier paying the taxes and deducting them from the dividends. Commutation was made possible by the payment of 10 per cent. of the annual net income of the company. Special provisions were made for New York County.

The general provisions for taxation in force in 1829, as seen in the Revised Statutes of that year, were as follows:

All lands and all personal estate within the State, whether owned by individuals or corporations, was liable to taxation, subject to the same exemptions as in 1823. Land, synonymous with real estate, included

¹ *Laws N. Y.*, 1823, ch. 262, p. 390.

the land itself, buildings, trees, underwood, mines, minerals, quarries and fossils. Personal property included household furniture, monies, goods, chattels, debts due from solvent debtors, public stocks and stocks in moneyed corporations. The taxpayer was to be taxed at his or her residence. Assessors were bound to abide by an affidavit regarding the value of his property made by the taxpayer.¹

Regarding the taxation of moneyed corporations, their real estate was taxed in the town or ward where it lay; their personal property in the town or ward where the corporation's principal office was situated. Manufacturing and Marine Insurance companies, whose net annual income did not exceed 5 per cent., could commute their taxes by annually paying 5 per cent. of their net income to the County Treasurer. Turnpike, bridge and canal companies, whose annual income was less than 5 per cent., were exempt from all taxes.²

All these provisions were renewed in the following editions of the Revised Statutes: 1835, 1846, 1852, 1859 and 1875, with the exception of the commutation clause, which was repealed April 15, 1857. No material additions were made to the general tax laws before 1880.

The Present System.

The present system of assessing and collecting the property tax in New York State can be described as follows: (The unimportant special provisions regarding New York City are disregarded.)³

¹Rev. Stat. 1829, Vol. I. ch. III; Title 1, § 1, p. 387; § 3; Title II, § 1, p. 389; § 15, p. 392.

²Ibidem, Title II, § 6, p. 389; Title IV, § 1; § 6, p. 415.

³Davies, *Taxation*; Cooley, *Taxation*; Burroughs, *Taxation*; Rev. Statutes N. Y., 8th ed. 1889, chap. xiii; Ely, *Taxation in American States and Cities*; Bryce, *American Commonwealth*, II, pp. 127-136, 271-3.

All lands and all personal property within the State, whether owned by an individual or by a corporation, are liable to taxation, with the usual exemptions covering Federal and State property, church and school property, prisons and almshouses, the property of charitable associations, of clergymen up to \$1,500, and lastly, all property exempt by law from levy and sale by virtue of an execution. Theoretically, every property-holder pays a tax proportioned to the aggregate amount of his property as far it is situated within the State.

Land or real estate includes:¹

"The land itself above and under water; all buildings and other articles and structures, substructures and superstructures erected upon, under or above, or affixed to the same; all wharves and piers, including the value of the right to collect wharfage, cranage or dockage thereon; all bridges; all telegraph lines, wires, poles and appurtenances; all surface, underground or elevated railroads, and the iron thereon; branches, switches and other fixtures permitted or authorized to be made, laid or placed in, upon, above, or under any public or private road, street or grounds; all mains pipes and tanks laid or placed in, upon, above or under any public or private street or place; all trees and underwood growing upon land; and all mines, minerals, quarries and fossils in and under the same, except mines belonging to the State."

An examination of the evolution of this voluminous definition would furnish an excellent review of the difficulties connected with the assessment of various kinds of property.

Personal property includes:² "All household furniture; monies; goods; chattels; debts due from solvent debtors, whether on account, contract, note, bond or mortgage; public stocks; and stocks in monied corporations; . . . and such portion of the capital

¹ *Rev. Stat.* 8th ed., Part I, ch. xiii, Title 1, Sect. 2, p. 1082.

² *Ibidem*, Sect. 3, p. 1083.

of incorporated companies, liable to taxation on their capital, as shall not be invested in real estate."

These definitions are of great importance in connection with the taxation of corporations, as we shall see.

In each township a board of assessors is elected, which is empowered to draw up the assessment list of its district. On this list is entered the name of the taxpayer, the amount of his real estate, its full value and the full value of his personal estate after deducting all *bona fide* debts owed by him. It is to be noticed that no such deduction is made in the case of real estate. The assessment of taxable property is to be made at its full and true value as it would be appraised by the assessors in payment of a just debt due from a solvent debtor, which principle is embodied in the assessor's oath of office.

In assessing a private corporation a difference is made between its real and personal property as was indicated above. Its real property appears in the assessment list of whatever township (or ward) it is situated in, but its personal property appears in bulk in the assessment list of the township in which the corporation has its principal office. The value of a corporation's personal estate is obtained by deducting from its paid-up capital the amount invested in real estate, the amount invested in stocks of other corporations subject to the same tax, the amount invested in stocks exempt from taxation and that amount of its capital which may be owned by the State or some association not liable to taxation.

By the first of August of each year the township assessment lists are complete and are open to inspection for twenty days. Any taxpayer, if aggrieved,

can appear before the assessors and petition for an abatement, in which case he is put under oath and examined by them.

As long as the assessment lists are in the hands of the assessors the taxpayer can have mistakes in his assessment corrected without going to court. But as soon as the assessment lists have been forwarded to the county officials, a correction of supposed errors is only possible by application to the courts. Two lines of action are open to the aggrieved taxpayer. He can either obtain an injunction to restrain collection, or a writ of *certiorari* to review the action. The former method is condemned as mischievous and tending to embarrass the operations of government.¹ "Only in case of great necessity is an injunction to restrain collection of a tax to be granted.²

The other means of redress available to the aggrieved taxpayer is to obtain a writ of *certiorari* from the State Supreme Court. This "may be allowed on the petition of a person or corporation assessed and claiming to be aggrieved, to review an assessment of real or personal property for the purpose of taxation made in any town, ward, village or city of this State, when the petition shall set forth that the assessment is illegal, specifying the grounds of the alleged illegality, or is *erroneous by reason of overvaluation*, or is *unequal* in that the assessment has been made at a *higher proportionate valuation than other real or personal property on the same roll* by the same officers, and that the petitioner is or will be *injured* by such alleged illegal, erroneous or unequal assessment."³ We have italicised portions

¹Cooley, *Taxation*, pp. 700-4.

²Rome, Watertown R. R. Co. vs. Smith, 39 Hun. 332 (1886.)

³Laws N. Y. 1880, ch. 269, p. 402. *Revised Statute*, 8th ed. p. 1114.

of the law to point out how smooth the path of the aggrieved taxpayer is made. He need not prove that his property was overvalued, but merely that his property was overvalued when compared with his neighbor's assessment.

The township assessors, after completing their task, forward the assessment lists to the County Board of Equalization. This board examines the assessment lists, which together make up the county assessment list, and can add to or deduct from the aggregate valuation of real estate in any township in order to bring about a just relation between the valuations of real estate in the various townships, but in no case can they reduce the aggregate valuation of the county as made by the assessors. It is to be noticed in the first place that the revision of the personal estate valuation does not come within the powers of the County Board of Equalization, and in the second place that any change in a township assessment list made by the Board affects the individual taxpayer only indirectly by raising or lowering the quota of the county and State tax which his township is called on to pay.

A position similar to the County Board of Equalization is occupied by the State Board of Equalization.¹ It consists of three State assessors and six of the State officers, and supervises the distribution of the State taxes among the various counties. This Board revises the county assessment lists and can increase or diminish the aggregate valuation of real estate in any county, in no case, however, reducing the aggregate valuations of all the counties below the figure returned by the county officials. It

¹Established in 1859. *Law N. Y.* 1859, ch. 312, p. 702.

is seen, as in the case of the County Board, that the State Board of Equalization can only revise real estate valuations, and that any change made by the Board only affects the amount of an individual county's share of the State tax.

This share is ascertained by multiplying the State tax rate, as fixed by the Legislature, with the revised aggregate county valuation. This amount is added to the county tax levy and is divided among the townships. Each township adds its share of the county and State tax to its own township tax, which is then raised by the collectors. The amount raised is then divided in the proper ratio between Township, County and State.

In reviewing the history of the property tax one is impressed with the uniformity of its development. The principle at the foundation has remained unchanged throughout two centuries, and whatever changes in form and execution of the tax have been made were due to the attempts to adapt the system to changing conditions. The present aspect of the property tax is about the same in all the States. However its development may have differed in the various States, old and new ones, they have now a common system of local taxation.¹

¹Cf. Ely, *Taxation in American States and Cities*; Report Revenue Comm. Ill. 1886; Report on Taxation, Conn. 1868, 1887; Washington, *Finances of Penna.*; Report on Taxation in Mass., 1875; Minot, *Taxation in Mass.*; Cooley, *Taxation*; Report Auditor Dakota, 1886; Report Compr. Cal., 1882; Report Board Equalization, Cal., 1880; Report Auditor Ala., 1882; Seligman, *Finance Statistics of the American Commonwealths*, Am. Statist. Asso., Boston, 1889.

STATISTICS.¹

The State tax which is added to the county rate and collected in the townships and wards averaged one mill in the dollar during the half century ending with the Civil war. From then till 1880 the State rate averaged over five mills, and since 1880 it has fallen to an average of two and three-quarter mills on the dollar. The list of State taxes since 1815 is as follows: (in mills)

1815	2	1845	.6	1860	3 $\frac{1}{2}$	1875	6
1816	2	1846	.6	1861	3 $\frac{1}{2}$	1876	3 $\frac{1}{4}$
1817	2	1847	.5	1862	4.75	1877	3 $\frac{1}{2}$
1818	3	1848	.5	1863	5	1878	2.9
1819	1	1849	.5	1864	5.25	1879	2.863
1820	1	1850	.5	1865	4 $\frac{1}{2}$	1880	3.5
1821	1	1851	.5	1866	5 $\frac{2}{5}$	1881	2.25
1822	1	1852	.25	1867	7.8	1882	2.45
1823	1	1853	1	1868	5.8	1883	3.25
1824	1	1854	.75	1869	5 $\frac{1}{2}$	1884	2 $\frac{1}{2}$
1825	.5	1855	1.25	1870	7 $\frac{41}{135}$	1885	2.96
1826	.5	1856	1.75	1871	5 $\frac{79}{120}$	1886	2.95
1842	1	1857	3	1872	9 $\frac{1}{2}$	1887	2.7
1843	1	1858	2.5	1873	6.95	1888	2.62
1844	1.1	1859	2.5	1874	7.25	1889	3.52

¹Compiled from N. Y. State and N. Y. City Comptroller's Reports; Statement Bonded Debt, N. Y. City, Dec. 31, 1886.

The amount raised by the above State tax since 1843, is :

1843	\$ 619,694	1865	7,230,977	1878	7,941,298
1844	592,009	1866	8,517,465	1879	7,690,416
1845	655,067	1867	12,647,219	1880	9,232,542
1846	361,310	1868	10,243,317	1881	6,032,830
1847	370,557	1869	10,463,179	1882	6,820,022
1848	302,579	1870	14,285,977	1883	9,334,836
1859	3,512,284	1871	11,613,944	1884	7,762,573
1860	5,440,640	1872	19,580,882	1885	9,160,405
1861	5,586,849	1873	14,800,903	1886	9,512,813
1862	6,884,194	1874	15,727,482	1887	9,075,046
1863	7,272,274	1875	14,206,681	1888	9,089,304
1864	7,880,249	1876	8,529,174	1889	12,557,353
		1877	8,726,511		

The figures for the county and township taxes are less accessible. During the years 1840-1889 the total valuation of the State, the total amount of taxes raised on property by State, county and town taxes, and the average rate in the State of all these taxes, were as follows :

	Valuation.	Rate.	Amount.
1840	\$ 641,359,818	.....	.....
1841	655,299,530	.....	.....
1842	620,676,346	.....	\$ 4,246,488
1843	592,262,444	.....	3,965,180
1844	599,891,923	7.7 %	4,243,102
1845	605,646,095	.....	4,633,821
1846	616,824,955	7.53	4,647,462
1847	632,699,993	7.65	4,843,626
1848	651,619,595	8.12	5,295,458
1849	665,850,737	8.33	5,548,981
1850	727,494,583	8.67	6,312,787
1851	1,077,831,630	6.27	6,759,638
1852	1,168,335,237	6.00	7,007,688
1853	1,266,666,190	7.37	9,345,222
1854	1,364,154,625	7.06	9,636,091
1855	1,402,849,304	8.32	11,676,172
1856	1,430,334,696	8.90	12,742,845
1857	1,433,309,713	10.57	15,163,138
1858	1,404,907,679	10.98	15,425,539
1859	1,404,913,679	11.64	16,353,287
1860	1,419,297,520	13.35	18,956,024
1861	1,444,767,430	14.15	20,402,276
1862	1,449,303,948	13.42	19,456,024
1863	1,454,455,817	15.84	23,046,801
1864	1,500,999,877	26.56	39,873,943
1865	1,550,879,685	29.63	45,961,441
1866	1,531,229,636	26.49	40,568,245

	Valuation.	Rate.	Amount.
1867	1,664,107,725	27.95 %	46,578,922
1868	1,766,089,140	25.08	44,298,436
1869	1,860,120,770	24.82	46,161,531
1870	1,967,001,185	25.55	50,328,684
1871	2,052,537,898	22.22	45,674,487
1872	2,088,627,445	30.41	63,511,936
1873	2,129,626,386	24.16	51,444,536
1874	2,168,307,873	26.64	57,811,382
1875	2,367,780,102	24.04	50,328,684
1876	2,466,267,273	21.14	52,148,368
1877	2,755,740,318	18.23	50,237,164
1878	2,738,378,600	17.54	48,047,242
1879	2,686,139,133	17.55	47,148,475
1880	2,637,869,238	18.62	49,117,782
1881	2,681,257,606	18.38	49,286,773
1882	2,783,682,567	17.09	47,573,820
1883	2,872,257,325	17.73	50,936,789
1884	3,014,591,372	17.37	52,372,707
1885	3,197,163,785	18.50	57,262,650
1886	3,224,682,343	18.02	58,110,079
1887	3,361,128,177	17.05	57,331,192
1888	3,469,199,945	17.47	60,639,807
1889	3,567,429,757	16.97	60,553,028

In 1850 the average tax on property per individual in the State was \$2.03; in 1860, \$4.88; and in 1880, \$9.66.

The average rate of taxation in the State (third column above) has little meaning, for the rate of county and town taxes varies very much in different parts of the State.

The following is the amount of property tax in some of the counties of the State in 1889 and the aggregate rate of such taxes :

COUNTIES.	POPULATION IN 1880.	COUNTY TAX.	TOWN TAX.	STATE TAX.	TOTAL.	Rate in Mills.
New York.....	1,206,299	25,459,710	.....	5,685,660	31,145,370	19.27
Kings.	599,495	2,042,074	9,356,095	1,372,270	12,770,439	32.25
Albany.	154,890	396,462	968,175	315,182	1,679,820	18.76
Hamilton.	3,923	13,014	11,014	3,646	27,674	26.71
Queens.....	90,574	195,415	139,122	165,353	499,889	10.64
Oneida.....	115,475	249,862	131,180	202,999	584,041	10.12
Rensselaer	115,328	228,400	180,926	218,750	628,075	10.10
Ontario.....	49,541	68,806	63,198	104,555	236,559	7.96

A table of the revenues of New York City (1805-1889) from the property tax and from other sources is appended. We have placed the municipal revenues from the property tax as well as from other sources in parallel columns in order to emphasize what was said above concerning the enormous increase, relative as well as absolute, of the property tax, when compared with the other sources of revenue. During the years 1840-1887 the revenue from the property tax increased twenty-four fold while rents increased but four fold, dock rent twenty fold and ferry rent seventeen fold. The great increase in the revenue from excise licenses is offset by the provision,¹ which requires the money thus raised to

¹ Laws N. Y., 1874, ch. 642.

be divided among charitable institutions. An analysis of the small increase of revenue from rents shows that while market rents have increased five fold there has been but a small increase in ground rents, while water lots rents and quit rents show a decided falling off since 1840. The municipal authorities have always been backward in developing these secondary sources of revenue, which were originally primary sources. The beggarly sums derived from the sale of railway franchises and from the taxation of transportation companies and other quasi-public corporations such as gas companies are proverbial.

(See table on opposite page.)

The following is the list of ordinary revenues of New York City during the year 1888:

From Rents and Sales.....	\$ 2,444,159
Interest on moneys invested.....	3,029,319
Licenses and Permits.....	206,028
Fees.....	366,006
Fines and Penalties.....	51,581
Franchises.....	158,637
Croton Water Rent.....	2,581,724
The State.....	694,169
Sundries.....	26,837
Taxes on property.....	34,754,974
 Total ordinary receipts.....	\$44,313,434

The receipts from Local Assessments, from Excise and from the issue of bonds have been omitted for obvious reasons.

During the census years since 1820 the average tax on property per individual in New York City, has been:

1820.....	\$2.90	1860.....	\$12.10
1830.....	2.40	1870.....	26.90
1840.....	4.33	1880.....	24.00
1850.....	5.80		

REVENUES OF NEW YORK CITY, 1805-1889.

City and County Tax.	State Tax.	Total.	Rate in Mills.	Ferry.	Docks and Slips.	Rents.	Excise Licenses.	Other Licenses.	Fees and Fines.	Orion Water Rent.		
1805	\$127,005	.....	5	1804	\$11,034	\$24,657	\$23,796	.....	.....	.....
1810	129,727	.....	5.1	.....	.....	.....	.....	.....	.....	.....
1815	197,913	\$163,372	\$361,285	4.41	1815	.....	.....	.....	\$1,265	.....	
1818	255,741	80,254	335,995	4.2	.....	.....	.....	.....	.....	.....
1822	303,106	71,280	374,386	5.25	.....	.....	.....	.....	.....	.....
1825	336,809	50,580	387,449	3.81	.....	.....	.....	.....	.....	.....
1830	.....	487,882	.....	1830	11,767	.....	79,072	\$30,880	2,885	\$12,685		
1831	.....	497,884	.....	1831	.....	.....	29,078	.....	.....	.....
1832	.....	523,949	.....	1832	9,303	47,520	.....	.....	13,234	.....	
1833	.....	640,375	.....	.....	.....	.....	.....	.....	.....	.....
1834	.....	904,960	.....	.....	.....	.....	.....	.....	.....	.....
1835	.....	858,640	.....	1835	.....	.....	.....	.....	6,114	.....	
1836	.....	866,602	.....	1836	11,684	.....	86,006	29,579	.....	22,408		
1837	.....	904,419	.....	.....	.....	.....	.....	.....	.....	.....
1839	.....	1,352,827	.....	.....	.....	.....	.....	.....	.....	.....
1840	1,310,063	34,172	1,354,835	.....	1840	20,418	68,174	81,711	30,780	5,766	13,916	
1841	1,404,936	35,415	1,440,351	.....	.....	.....	.....	.....	.....	.....	.....
1844	1,693,014	295,805	1,988,819	.....	1845	46,786	68,424	107,491	35,080	17,042	18,207	\$157,792
1846	2,546,790	168,720	2,715,510	.....	1850	50,982	108,484	161,175	59,493	18,774	15,415	458,962
1852	3,015,249	313,613	3,328,862	.....	.....	.....	.....	.....	.....	.....	.....
1854	4,236,962	604,294	4,841,256	.....	1855	105,450	160,602	159,949	12,480	36,457	29,807	708,690
1856	7,293,034	1,328,057	8,621,091	.....	.....	.....	.....	.....	.....	.....	.....
1860	7,649,873	2,108,635	9,758,508	.....	1860	94,412	169,310	165,423	.....	36,302	30,702	822,761
1863	9,354,825	2,737,080	12,001,906	22.1	.....	.....	.....	.....	.....	.....	.....
1865	15,300,008	2,902,849	18,202,857	29.2	1865	152,125	272,416	247,484	.....	35,805	26,537	1,049,556
1866	14,047,919	3,375,238	17,423,157	28.7	1866	181,330	.....	.....	.....	.....	.....	.....
1868	17,055,832	4,620,596	22,685,450	28.3	.....	.....	.....	.....	.....	.....	.....	.....
1870	18,661,904	6,741,956	25,400,860	27.3	1870	148,347	358,347	417,412	.....	24,612	9,295	1,188,681
1872	26,291,241	9,761,763	36,052,994	35.5	.....	.....	.....	.....	.....	.....	.....	.....
1874	24,639,335	8,012,386	32,651,721	29.54	1875	.....	.....	390,842	.....	28,000	.....	1,411,050
1876	23,876,333	7,233,180	31,109,522	28	.....	.....	.....	.....	.....	123,491	.....	.....
1878	24,097,561	3,911,827	28,008,888	25.5	.....	.....	.....	.....	.....	.....	.....	.....
1880	24,365,650	3,571,323	28,937,273	25.3	1880	66,093	790,753	329,513	419,915	23,882	116,900	1,615,513
1882	23,857,139	2,827,288	27,684,437	22.5	1882	.....	1,147,225	.....	583,655	.....	.....	.....
1886	27,605,786	4,051,487	31,657,273	21.00	1886	240,786	1,231,825	361,610	.....	65,606	151,020	2,501,975
1887	28,112,169	4,258,528	32,370,697	21.6	1887	346,391	1,384,470	377,852	.....	.....	.....	.....
1888	25,459,710	5,685,660	31,145,370	19.27	1888	.....	.....	1,425,300	.....	.....	.....	.....

The following is a table similar to the one above, detailing the receipts of the State Government during the fiscal year ending September 30th, 1889:

From Public Lands.....	\$7,870
Interest on moneys invested in U. S., county and town bonds and in mortgages.....	539,058
Interest on deposit.....	44,794
Federal government.....	77,792
Fees.....	393,486
Fines.....	3,136
Sundries.....	9,700

TAXES.

State Tax on property.....	\$9,102,611
" " Corporations.....	1,172,600
" " Organization of corporations ..	198,982
" " Collateral inheritances.....	1,075,662
Pool Tax.....	27,211

Total receipts..... \$12,652,812

REAL AND PERSONAL ESTATE IN THE ASSESSMENT LISTS.

We have examined the amount of the property tax throughout the State, and now turn to the question of the relative amount of real and personal property as they appear on the assessment lists. Since 1836 the assessed value of real property in the State has been to that of personal property as 100 is to:

1836	24
1837	24
1840	23
1844	25
1845	24
1850	24
1855	26

1860	29
1864	29
1865	34
1868	33
1870	28
1873	25
1875	20

1876	17
1878	15
1880	14
1885	12
1887	11
1888	11
1889	11

In New York City this ratio can be established for a longer series of years:

1809	15 : 100
1810	15
1811	15
1812	14
1813	17
1816	43
1817	36
1818	35
1819	30
1820	33
1821	35
1822	33
1823	40
1825	73

1826	65 : 100
1828	48
1830	43
1832	39
1834	51
1836	32
1840	35
1845	37
1850	31
1855	44
1859	45
1860	45
1861	43
1862	43
1863	48

1864	54 : 100
1865	42
1867	50
1869	41
1874	31
1876	24
1878	22
1880	22
1882	19
1883	18
1886	18
1887	20
1888	19
1889	16.7

The same ratio in the city of Boston has been:¹

1799	116 : 100
1804	111
1809	84
1814	85
1816	73
1818	75
1820	76
1822	80
1824	82
1826	73

1828	74 : 100
1830	61
1832	71
1834	73
1836	63
1838	57
1840	56
1842	63
1844	64
1846	75

1848	67 : 100
1850	71
1852	69
1854	77
1856	73
1858	66
1887	35
1888	35

¹ Municipal Charter of the City of Boston, 1859, pp. 232-233.

Curiously the relative decline in the assessed value of personal property begins in the '20's in both cities.

Judging from the valuation of property in the assessment lists, the increase and decrease of both kinds of property in the State must have been:

	Real Property.		Personal Property.	
1859—1865	Increase	5½%	Increase	27%
1865—1870	"	32	"	26
1870—1875	"	27	Decrease	6
1875—1880	"	18	Increase	11
1880—1885	"	19	"	17
1885—1890	"	16	"	3

and in the City of New York:

	Real Property.		Personal Property.	
1809—1813	Increase	9%	Increase	25%
1816—1820	Decrease	10	Decrease	42
1820—1825	Increase	12	Increase	145
1859—1865	"	12	"	6
1865—1886	"	181	"	10
1880—1887	"	36	"	6

This apparently slow growth of personal property within the State, need not be commented upon. It is a well-known fact that the great mass of personal property is barely touched by the tax. As early as 1832 the New York City comptroller complains¹, that "a portion of our business population escapes enrolment on our tax lists." The State Comptroller makes a similar complaint in his report for 1849,² and since

¹ Report N. Y. City Compt. for 1832, p. 10.

² Cf. Report N. Y. City Tax Commissioners 1850, pp. 9, 25.

then, numerous comptrollers and tax commissions have called attention to this defect in the tax system. It is generally acknowledged that real estate is assessed at one-half to three-fifths of its market value under the most favorable circumstances, namely in cities, while in country districts the fraction sinks to one-third and one-fifth.¹

In general low valuations are favored by the practice of adding state and county taxes to township taxes. "Hence arises the double competition between the assessors of counties in the aggregate, and of the towns in each county, for the lowest possible valuation,"² in order to escape as much as possible of the county and State taxes.

INDEPENDENT STATE TAXATION.

This difficulty, as well as the difficulty of properly taxing private corporations, has led to the introduction, since 1880, of a system of direct State taxes, which should be independent of county and township taxation. The State treasury had been made too dependent on county finances. As was the case in New York City, other sources of revenue beside the property tax were never fully developed. Auction duties have declined from \$218,514 in 1830 to \$17,417 in 1888. Rent of public land never netted the State more than an insignificant sum; the revenue from salt duties netted a surplus as late as 1875, but they now do not cover the cost of collection, while the canals ceased to be a source of rev-

¹Cf. Report on Local Taxation, N. Y. 1871, p. 20; Report State Comptroller for 1872.

²Report Local Taxation N. Y. 1871, p. 20; Cf. N. Y. State Bar Association Report, Vol. IV, Albany, 1881, p. 148.

enue in 1882, the State pledging itself in the constitution to provide for its maintenance out of the revenue from taxation.

The corporation tax of 1880 (since then frequently amended)¹ now taxes every corporation doing business in the State, except savings banks, institutions for saving, life insurance companies, banks and foreign insurance companies, agricultural, horticultural and manufacturing or mining corporations, as follows: If the yearly dividend amounts to more than 6 per cent., the corporation pays a yearly tax to the State of .025 per cent. of its capital for every 1 per cent. dividend declared. If the dividend amounts to less than 6 per cent., the corporation pays a yearly tax of .15 per cent. of its capital, the latter being assessed at its market value. The distinction between dividends of over and under 6 per cent. is directed at preferred and common stock.

In 1887 a tax on the privilege of organization of corporations of $\frac{1}{2}$ of 1 per cent. on their capital was passed.²

A third source of revenue was found for the State in 1885 by an act³ taxing collateral inheritances.

These three sources of State revenue, entirely independent of county and town taxes, netted \$1,172,600, \$198,982 and \$1,075,692 respectively during the fiscal year ending September 30th, 1889.

¹ *Laws N. Y.*, 1880, ch. 542, p. 763; Declared constitutional, People vs. Nat. Fire Ins. Co. of Hartford, 27 Hun. 188 (1882); *Laws N. Y.* 1881, ch. 332, p. 454; 1882, ch. 151, p. 186; 1885, ch. 359, p. 608; 1886, ch. 266, p. 442; 1887, ch. 699, p. 907; 1889, ch. 193, p. 229.

² *Laws N. Y.* 1887, ch. 284, p. 355, amending *Laws N. Y.* 1886, ch. 143, p. 302.

³ *Laws N. Y.* 1885, ch. 483, p. 820, 1887, ch. 713, p. 921; Declared constitutional, Matter of McPherson, 104, N. Y. 306.

New York is not the first State to introduce independent State taxes. Pennsylvania has gone much further in this direction.¹ Since 1867 real estate is exempt from State taxation. Of the \$8,465,399 raised by State taxes in 1889, only \$747,871 were raised by the personal property tax. Taxes on corporations contributed \$3,951,927—that is almost half the State revenue—the tax on collateral inheritances netted \$1,378,454, while the rest of the State revenue was derived from fees and licenses of various kinds.²

This development of State taxes has met with favor in Pennsylvania. The same tendency is seen in other States and everything seems to point toward a similar development in New York, it being recommended in numerous tax reports.³

The Pool tax, introduced in 1887,⁴ deserves passing mention. It levies an annual tax of five per cent. upon the gross receipts for the admission to race tracks, and in return provides that the sections of the Penal Code prohibiting pool selling shall not apply during thirty days in the year to the race tracks under the authority of this law. It is to be hoped that this law will be effaced from our statute book, and soon be a thing of the past as much as government lotteries and similar sources of revenue.

¹Worthington, *Finances Penna.*

²Report Auditor General Penna. for 1889.

³Special Report N. Y. State Comptr. on Salaries, Taxation and Revenue, March, 1886, p. 7; Report N. Y. State Assessors, 1879, p. 4; Report Revenue Comm. Ill. 1886, pp. VIII-XV; Report Md. Tax Comm. 1886, pp. 56-62, 162 ff; Report on Taxation, Conn., 1887, p. 31 ff, Report N. Y. Tax Comm. March 1881, pp. 29-32, appendix, pp. 11 ff.

⁴Laws N. Y., 1887, ch. 479, p. 604.

LEGAL COMPLICATIONS OF THE PROPERTY TAX.

The difficulty of assessing real property at its market value lies in the unwillingness of the assessors to set down that value. There can never be any question as to the *situs* of such property.

In the case of personal property, matters lie quite differently. First the assessor must discover personal property and establish its legal *situs* before he can assess its value. In the present day, what with the mobile character of such property, and the complications affecting its legal *situs* and the taxing powers of the different public corporations, the task of reaching personal estate for purposes of taxation has become quite hopeless.

It is generally conceded that the amount of personal estate in the State equals that of real estate, but that not more than one-fifth of the former finds its way into the assessment lists.¹ A glance at the large number of publications on the subject convinces one that the same condition prevails in the other States.²

But even if personal property is discovered by the assessors, the law often steps in the way and prevents its taxation. The constitutional provisions regarding inter-state commerce have greatly complicated the question. We cite some of the leading cases decided in the State and Federal courts.³

¹ Report Local Taxation, N. Y., 1871, p. 26.

² Ely, *Taxation in American States and Cities*; Report Board Equaliz. Cal. 1880, pp. 28, 34; 1886, p. 13; Report Ala. State Auditor 1886, p. 5; Report Special Comm. on Taxation, Conn., 1886, pp. 21, 25; Report Rev. Comm., Ill., 1886, p. II; Minot, *Taxation in Mass.*, p. 6.

³ Davies, *Taxation*, pp. 18-21. Cf. D. A. Wells, *Reform of Local Taxation*, *North American Rev.* 122, p. 376 (1876).

A statute of a State imposing a tax on the gross receipts of railroad companies is constitutional, though the receipts are made up in part from freights received for transporting goods from one State into another. A distinction is made between a tax on freights carried between States because of their carriage and a tax upon the fruits of such transportation after they have become intermingled with the other property of the carrier.¹ However, the Federal Supreme Court decided in 1886 against the constitutionality of a State statute which levies a tax upon the gross receipts of railroads for the carriage of freights and passengers into, out of or through the State, as being a tax upon commerce between the States.²

A general State tax laid alike on all property is constitutional, even if it happens to fall on goods intended for export. Coal mined in Pennsylvania and shipped to Louisiana becomes intermingled with Louisiana property and liable to taxation there, though not landed, but intended for export.³

On the other hand imported goods while still in their original packages are exempt from taxation, a welcome provision to all importing merchants in New York, whose personal property appears in consequence on the assessment list as amounting to an insignificant sum. Similarly a tax on auction sales is void when applied to the sale of imported goods in the original packages.⁴

¹Reading Railway Co. vs. Penna., 15 Wallace, 284 (1872).

²Fargo vs. Mich., 121 U. S., 230; Cf. Phila. & Southern S. S. Co. vs. Penna., 122 U. S., 326.

³Brown vs. Houston, 114 U. S., 622 (1885).

⁴Cook vs. Penna., 97 U. S., 566 (1878).

A steamship company incorporated under New York State laws engaging in foreign trade is not exempt from taxation on its capital, because the amount is invested in steamships engaged in foreign commerce.¹

Aside from the constitutional questions involved, the question of the *situs* of personal property has led to legal complications.²

The personal property of non-residents is exempt when actually situated in another State or country, and taxable when situated within the State. This only applies to property which is capable of having an actual *situs*. Debts and choses in action in general follow the domicile of their owner. Lands and chattels have an actual *situs*. The legal fiction "*mobilia personam sequuntur*" is not of universal application.³ Goods and chattels within a State are equally taxable, whether owned by a citizen of the State or a citizen of another State, even though the latter is taxed in his own State for the value of the same goods as part of his personal estate.⁴

In general personal property is assessed in the township or ward in which the taxpayer resides on the day of assessment.⁵ Residence of a person in a town during June, July and August gives the town assessors jurisdiction over his person and property

¹People, ex rel. U. S. & Brazil S. S. Co. vs. Commissioners of Taxes N. Y., 48 Barbour, 157 (1866). Cf. in general People, ex rel. Haneman vs. Tax Commissioners, 10 Hun., 255; 73 N. Y., 607 (1878).

²Report on Local Taxation, N. Y., 1871, pp. 38-52, 64ff.

³Hoyt vs. Commissioners of Taxes, 23 N. Y., 224 (1861).

⁴Coe vs. Errol, 116 U. S., 517 (1886).

⁵Davies, *Taxation*, pp. 112-113; *Laws N. Y.*, 1850, ch. 92, p. 142; 1851, ch. 176; Bartlett vs. Mayor, etc. of N. Y., 5 Sandf., 44 (1851); Douglass' vs. Mayor, etc. of N. Y., 2 Duer, 110 (1853); Kirtland vs. Hotchkiss, 100 U. S., 491 (1879).

for the purpose of completing an assessment of his property. A change of residence after July 1st does not affect the assessment roll.¹

It is often difficult to determine the place of legal residence of a taxpayer, especially in the case of New York City, many of whose inhabitants claim a legal residence, perhaps only a summer home, in some neighboring county or in the State of New Jersey. A simple affidavit exempts such persons from taxation on their personal estate in New York City. In their country residences they pay only small taxes or are discreetly left unmolested by the county and township officials for fear of losing a valuable patron of the district.

Debts due inhabitants of the State from non-residents are taxable "however secured and wherever securities are held."² But this clause is practically nullified by the provision that if such debts are capable of an actual *situs* without the State they are exempt from taxation.

Debts owing by residents of the State to foreigners for the purchase of real estate are taxable as personal estate.³ Other debts owing by the taxpayer are deducted from his personal estate assessment and remain untaxed.⁴

The personal property of non-residents is taxable in so far as it is invested in the State.⁵ The agencies of non-resident corporations, such as banks, insur-

¹Boyd vs. Gray, 34 Howard Practice, 323.

²Davies, *Taxation*, pp. 64-5; *Laws N. Y.*, 1883, ch. 392, p. 568.

³*Laws N. Y.*, 1851, ch. 371, p. 721.

⁴*Laws N. Y.*, 1851, ch. 176; 1884, ch. 57; 1885, ch. 201, p. 364.

⁵*Laws N. Y.*, 1855, ch. 37, p. 44; Internat. Life Ass. Soc. vs. Commissioners of Taxes, 28 Barb., 318 (1858); Duer vs. Small, 4 Blatchf., 269; 17 Howard Pr., 201 (1859).

ance companies and factories, are directly affected by this provision.¹ However the interpretations of the law have been lenient. The goods of a non-resident owner sent to this State for the purpose of sale without reinvestment of the proceeds are not liable to taxation. The law intends to reach non-residents, employed within the State in a continuous business, and not property sent here only as to a market for sale.² Foreign capital sent to New York for investment is exempt, whether invested or uninvested, and whether the securities received therefor are taken away or remain in the State for collection.³ Where a foreign bank transmits its surplus to its agency, permanently established in New York City, for temporary loans, these funds are exempt.⁴

To prevent so-called double taxation, an individual stockholder in a corporation, liable to taxation on its capital, is not assessed for the value of such stock.⁵

One more general provision must be cited, which bears directly on the assessment of personal property. By act of Congress, February 25th, 1862, all United States stocks are exempt from State and local taxation.⁶ However, stockholders in a bank may be

¹People, ex rel. Bay State, etc. Co. vs. McLean, 80 N. Y., 254 (1880).

²People, ex rel., The Parker Mills vs. Commissioners of Taxes, 23 N. Y., 242 (1861).

³Williams vs. Board of Supervisors, 78 N. Y., 561 (1879).

⁴People, ex rel., Bank of Montreal vs. Commissioners of Taxes, 59 N. Y., 40 (1874); Cf. Hoyt vs. Commissioners of Taxes, 23 N. Y., 224 (1861); People vs. Trustees of Village of Ogdensburg, 48 N. Y., 390.

⁵People, ex rel., Lincoln vs. Town of Barton, 44 Barb., 148 (1865).

⁶Davies, *Taxation*, pp. 76-78; People, ex rel., Lincoln vs. Barton, 44 Barb., 148 (1865); People, ex rel., Bank of Commonwealth vs. Commissioners of Taxes of N. Y., 2 Black, 620; Bank vs. Supervisors, 7 Wall., 26 (1868); Bank vs. Mayor, 7 Wall., 16 (1868).

taxed for the value of their stock, although the whole stock is invested in United States bonds and securities.¹

THE PRESENT TAX QUESTION.

In view of the legal complications in State and local taxation, which have been imperfectly sketched above, and in view of the practical difficulty of reaching the great mass of personal property, it is now generally acknowledged that *uniform* taxation of *all* property is an utter impossibility. As we have seen, real estate has always born the brunt of the property tax, and it has been proposed by those New Yorkers best acquainted with the subject, to give up the taxation of personal property,² which, as it now stands, is a mere farce and calculated to put a premium on dishonesty. The decrease in revenue due to such a change might be offset by increasing the tax on real estate, by extending the system of corporation taxes, or by introducing some form of personal taxation. Each of these measures has its advocates.

It is granted on all sides, that a reform of the present State and local tax system is necessary, but all are not agreed on the method of accomplishing this end. Any tax reform is so immensely complicated now-a-days by economic conditions. It is no longer simply a question of public finance. Just as the tariff has long ago ceased to be treated as a fiscal question, but as a question of industrial legislation, so state or local taxes no longer involve purely fiscal

¹People *vs.* Commissioners of Taxes, 23 N. Y., 426 (1866).

²Report on Local Taxation, N. Y., 1871, pp. 52-59, 71-74; Message of Abram S. Hewitt, Mayor, to Board of Aldermen, Jan. 1888, pp. 37-38.

measures, but are fast assuming the character of industrial laws. The history of corporation taxation is an excellent illustration of this—the lenient treatment of manufacturing corporations and their exemption from the direct State corporation tax. The Erie canal which had long been made a source of revenue, was made free by a vote of the people on November 7th, 1882. A similar fate, no doubt, awaits the Brooklyn bridge.

As the tax laws now read¹—

"The real estate of individuals and corporations and the personal estate of individuals contribute to local taxation, and to the quota of State tax, but the personal estate and capital stock of corporations, contribute only to local taxes. . . . Individuals and corporations, including those liable to direct State taxation, pay taxes on real estate. Individuals and corporations not so liable, pay on personal estate by a rate that includes the State tax, while corporations so liable, and assessed upon the same roll, pay taxes on their capital stock and personal property according to the same rate, diminished by the rate of State taxation."

Practically, all real estate is taxed, though very unequally. Of personal estate, the greater part escapes taxation, while the property of minors and other property which is in the hands of trustees, and cannot therefore escape notice, is heavily taxed.

The results we have reached, can be summed up as follows :

I. A general property tax, aiming at the taxation of the individual in proportion to his aggregate property, cannot be carried out with any degree of justice in New York. In Colonial times, when property was largely visible and tangible, such a tax may have been just as well as expedient, but in the present century it cannot be consistently maintained.

¹Davies, *Taxation*, p. 8.

II. Even if it were possible to assess all property at approximately its market value, it is not in accordance with just principles of taxation, to allow a tax which measures the individual's ability to pay taxes by the extent of his property, to gain the proportions which this system has gained in New York. The property tax in all the States and Territories, yielded in 1880, \$302,200,694,¹ a sum nearly equal to that derived by the Federal government from indirect taxes during the same year.

As an argument in favor of the present direct tax system, it is maintained that the property tax is a proper offset to the Federal taxes which fall particularly on the poorer classes. This argument however fails to establish the justice of the property tax in its present proportions in view of the changing tariff policy of the Union, and in view of the fact that the upper classes, as distinguished from the poorer classes, who bear the brunt of federal taxation, by no means correspond with the property tax-payers.

At the foundation of the property tax lies the principle contained in the "Social Dividend Theory of Taxation," as President Walker calls the doctrine "that the members of the community ought to contribute to the public support in proportion to the benefits they derive from the protection of the State."²

Such a give-and-take principle ("Leistung und Gegenleistung") is recognized in the first constitution of Massachusetts and in the Vermont constitution now in force, which provides (chap. I, art. 9) "that every member of society hath a right to be protected in the enjoyment of life, liberty and property, and there-

¹Compendium U. S. Census 1880, Part II, p. 1509.

²Walker, *Political Economy*, p. 440, §424.

fore is bound to contribute his proportion towards the expense of that protection . . . ” This principle has also been accepted by the courts:¹ “The person upon whom the demand is made, or whose property is taken, owes to the State a duty to do what shall be his just proportion towards the support of government, and the State is supposed to make adequate and *full compensation*, in the protection which it gives to his life, liberty and property, and in the increase to the value of his possessions, by the use to which the money contributed is applied.” This doctrine quite agrees with the popular notion in New York City, that one of the chief objects of municipal government should be to insure the rise in the value of real estate. We are told that “a property tax for the general purposes of the government, either of the State at large or of a county, city or other district, is regarded as a just and equitable tax. The reason is obvious. It apportions the burthen according to the benefit, more nearly than any other inflexible rule of general taxation.”² And again that “there is nothing poetical about tax laws. Whenever they find property they claim a contribution for its protection, without any special respect to the owner or his occupation.”³

Judge Dillon says:⁴ “Theoretically, the taxpayer is compensated for the taxes he pays, in the protection afforded to him and his property by the government which imposes the tax.” The State’s sole duty is the protection of property. Granted this premise

¹Cooley, *Taxation*, pp. 2, 20, 24.

²The People, ex rel., Griffen vs. The Mayor, etc. of Brooklyn, 4 N. Y., 428 (1851).

³Findley vs. The City of Phila. 32 Penna., 381.

⁴Dillon, *Municipal Corporations*, II, §736, p. 728.

is true, the conclusion is then quite correct. An individual must contribute to the State's support in proportion to the property in his possession.

The Economists have outgrown this position which the law so stoutly maintains. To quote from John Stuart Mill alone¹—

"There is in this adjustment (the *quid pro quo* principle) a false air of nice adaptation, very acceptable to some minds. But in the first place, it is not admissible that the protection of persons (for which service a pole tax is consistently proposed) and that of property, are the sole purposes of government. The ends of government are as comprehensive as those of the social union. They consist of all the good, and all the immunity from evil, which the existence of government can be made either directly or indirectly to bestow. In the second place, the practice of setting definite values on things essentially indefinite, and making them a ground of practical conclusions, is peculiarly fertile in false views of social questions. . . . Whether the labour and expense of the protection, or the feelings of the protected person, or any other definite thing be made the standard, there is no such proportion as the one supposed, nor any other definable proportion. . . . If there were any justice, therefore, in the theory of justice now under consideration, those who are least capable of helping or defending themselves, being those to whom the protection of government is the most indispensable, ought to pay the greatest share of its price."²

The sentence in the opening paragraph of Judge Cooley's treatise on Taxation, is an indirect admission of the insufficiency of this give-and-take theory of taxation: "The justification of the demand is therefore found in the reciprocal duties of protection and support, between the State and those who are subject to its authority, and the exclusive sovereignty and

¹Mill, *Political Economy*, II, Book V, ch. II, §2, pp. 393-4.

²Cf. similar lines of reasoning in Leroy-Beaulieu, *Traité de la Science des Finances* I, pp. 113 ss. Livre II, ch. I; Rogers, *Economic Interpr. History*, p. 117; Walker, *Political Economy*, p. 440, §464; Cohn, *Finanzwissenschaft*, Buch 2, Kap. 1, §192, ss. 234 ss.; Wagner, *Finanzwissenschaft*, II, §§329 ss. S., 150 ss.

jurisdiction of the State over all persons and property within its limits for government purposes."

The New York property tax is essentially objective; that is, it is directed at the property as distinct from the possessor. *Property* and its relation to the Commonwealth are emphasized, the tax-paying *citizen* is left out of account. Property, not the citizen, is taxed. This may seem a sophistical distinction. But the fundamental error in the theory of the general property tax is this personification of property. As long as the citizen, his relation and duties to the Commonwealth are overlooked in our tax system, we can expect no advance in our present primitive methods.

The property tax will probably always play an important part in municipal and county finances. The peculiar relation of real estate to local government will tend to cause its taxation to be retained as in England.¹ "In local taxation the local benefits may in many cases be seen, traced and estimated to a reasonable certainty."² This principle is at the foundation of so-called local assessments³ for building streets, bridges and sewers, the supply of water, etc.

The experience of two centuries shows that an extension of the property tax is undesirable and inexpedient.⁴ On whatever lines State and local

¹Gneist, *Englische Kommunalverfassung*, 1863, S. 69 ss.; Bödiker, *Kommunal- Besteuerung in England and Wales*, 1873; Probyn, *Local Government in the United Kingdom*, 1882.

²The People vs. Mayor, etc. of Brooklyn, 4 N. Y., 428.

³Cooley, *Taxation*, pp. 606-77.

⁴Cf. Wells, *Reform of Local Taxation*, 1876, Ely, *Taxation in American States and Cities*, pp. 237, ss; Seligman, *The General Property Tax*, pp. 56, ss.

taxation are to be extended, a new direction for their development must be discovered.

If the personal property tax is given up, which seems inevitable, the arguments against an extension of real estate taxation are the same as those urged against the Henry George single-tax system, while an extension of corporation taxation means an extension of our present impersonal tax system. The introduction of some form of subjective, that is, of personal tax, seems to us advisable, which would be directed at the citizen as an individual taxpayer, not at his property. By building up a tax system on such a foundation the taxpayer would be awakened to a sense of his civic duties which lies dormant under the present system.

The Federal Government can accomplish nothing by direct legislative interference. None of the existing Federal taxes can furnish a foundation for State and local taxes as is the case in Germany and France. The constitutional development of the United States has tended to separate Federal from State and local taxation. The distribution of the surplus revenue of 1837, the greatest attempt to connect their systems of finance, proved a dismal failure.¹

¹Bourne, *History Surplus Revenue of 1837*, N. Y., 1885.

V.

RÉSUMÉ.

We have completed the review of the development of the New York property tax from the early Colonial days to the present day.

In this development we sought to emphasize the following facts:

The economic condition of the Colony during the Dutch rule did not favor the introduction of a direct tax on possessions, hence the prevalence of indirect taxes during that period. As soon as property became fixed and centred about the possession of land, a general property tax was introduced, modelled after the tax in force in New England. The uniform development of the tax was conditioned:

I. By the traditions of England, where a direct tax on property has been in vogue since the Norman Conquest.

II. By the economic condition of the Colony. As long as the inhabitants were mostly owners of real estate it was comparatively easy to assess their property, personal as well as real, and the equal taxation of all property was an easy and just method.

III. By the political development of the State. Freeholders occupied a peculiar position for a long time, and, in virtue of this position, the class of freeholders was coextensive with the class of taxpayers.

IV. By the relation of the Union to the States, the Federal Government on the one hand indirectly compelling the States to develop the property tax to its fullest extent, and on the other hand making the raising of that tax more and more difficult by reason of the interpretation of the Constitution by the Federal courts.

We pointed out the difficulties in the way of consistently carrying out the tax laws, which are centred about the difficulty of an equal and just assessment of all property. The frequent attempts to make the assessments more effectual, either by manipulating the assessor's oath, or by establishing fixed values at which various kinds of property were to be assessed, or by interference on the part of State officials, have all in turn failed to accomplish anything. The assessors will not, or cannot, assess real estate at its market value. The distribution of State taxes among the counties, and of county taxes among the townships, tends to aggravate this evil. Personal estate largely escapes taxation either on account of its mobile character or owing to legal complications.

Experience certainly teaches the necessity of a fundamental reform in State and local taxation. The property tax alone can hardly supply the growing needs of the counties and townships,—no material increase is to be expected in State expenditures. Some radical change in our local tax system is imperative. At present there is little indication of a coming reform. Aside from the recommendation to abolish the tax on personal property, the public at large seems quite well satisfied with the present antiquated system. As was the case in Europe, the increase in the fiscal needs of our cities and counties

will bring direct pressure to bear on the taxpayer and will induce him to examine the subject and convince himself of the necessity of reform. The increase of publications on taxation and public finance during the last few years is a sign of the awakening of interest in the subject.

A comparison of the systems of national and local taxation in the European States with the systems in the United States is of little value on account of the different constitutional arrangements in these countries. A comparison of the proportion of direct to indirect taxes paid by inhabitants of various countries is as follows:¹

	Direct Taxes.	Indirect Taxes.
France.....	22.70%	77.30%
Great Britain.....	40.16	59.84
United States.....	49.31	50.67
Prussia.....	50.63	49.37
Canton Zurich.....	75.84	24.16

It is evident that the United States and Prussia are most nearly alike in the proportion direct taxes bear to indirect taxes, while Switzerland and the United States have in general similar tax systems, namely, federal indirect and local direct taxes.

In the decentralized system of public finance in the United States there is no form of federal or State tax which could furnish a foundation for the taxes of the subordinate corporations. The entire direct tax system centres in the townships and cities,²

¹G. Cohn, *Steuerreform im Kanton Zürich und Bundeshaushalt d. Schweiz*, 1883, s. 63, based on Gerstfeldt, *Jahrb. f. Nat. Oek. und Statist. N. F.*, Bd. 7, s. 40. Jena 1883; Spofford *American Alm. for 1889*, pp. 65, 203 (for 1880).

²Village and town assessments (Cf. Act Dec. 7, 1847) were to be distinct, but on similar lines. The village trustees act as assessors, but their powers are limited (Cf. *Laws N. Y.*, 1870, ch. 291; 1871, ch. 176; 1876, ch. 317; 1885, ch. 192). There is a decided tendency to rob them of the little fiscal independence they possess, and remove the distinction between town and village assessments, by putting both in the hands of the town assessors. (Cf. *Laws N. Y.*, 1885, ch. 60, p. 132.)

and whatever pressure has been brought to bear on the subordinate corporations by the State government has not tended to improve the tax system, but rather to intensify its worst features. With good reason the towns and cities, especially New York City, strenuously object to the State's interference with their finances, for so far little good and much harm has resulted from it.

An inhabitant of the following counties of the State of New York paid on an average in 1886 a property tax for town, county and State purposes as follows:

	County Tax.	Town Tax.	State Tax.
New York.....	\$ 20.60	....	\$ 1.45
Albany.....	2.30	\$ 5.10	1.40
Kings.....	2.05	12.10	1.35
Erie.....	2.30	.20	1.45
Westchester.....	2.15	2.10	1.85
Queens.....	1.60	1.80	1.20
Ontario.....	1.20	1.30	1.35
Oneida.....	1.85	1.00	1.30
Sullivan.....	1.40	2 00	.50
Putnam.....	1.40	.75	1.35
Cortland.....	1.45	1.80	1.15
Orange.....	1.35	1.50	.85
Monroe.....	1.55	.65	1.45

During the same year \$9,089,304 were raised by the property tax for State purposes, and \$51 550,503 for local purposes. In the townships and particularly

in the large cities, the heavy pressure of the tax will first be felt, and the question of a tax reform will first be discussed. An inhabitant of New York City will first look into the character of the municipal property tax, which annually demands \$20.60 of him before he questions the justice of the State tax (\$1.45).

The conflict of city and country interests in tax matters suggests the propriety of separating municipal from the finances of the country districts. Everything points to a decentralization of our system in that direction. By such a move the initiative of reform is laid in that body politic, where the citizen is most directly made conscious of his position in the Commonwealth, and where for that reason some form of personal taxation would be particularly desirable. Such a move would also correspond with the development of taxes in European countries. It is to be hoped that what it cost England centuries to accomplish may be reached in this country in a generation or two.

The Educational Value
of Political Economy.